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Oil Pollution Prevention—Vessels and Marine Oil Transfer Facilities

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 154, 155, and 156

[CGD 75-124]

Oil Pollution Prevention—Vessels and Marine Oil Transfer Facilities

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the Oil Pollution Prevention Regulations. Changes are necessary due to public and industry comments, Coast Guard experience in enforcing the existing regulations, the availability of economical and practicable pollution control and monitoring equipment, and new requirements accepted as necessary by the Intergovernmental Maritime Consultative Organization (IMCO) during the 1978 International Conference on Tanker Safety and Pollution Prevention (TSPP). The primary reason for revising the regulations is that frequent operational oil spills remain the greatest source of damage to the environment, rather than the occasional catastrophic spill. Cargo tank cleaning, bilge pumping, ballasting, faulty equipment and personnel errors cause more spills than the major catastrophes. These spills can be prevented by proper equipment, personnel and procedural requirements.

EFFECTIVE DATE: This amendment is effective on March 3, 1980.

FOR FURTHER INFORMATION CONTACT: LCDR John G. Busavage, Office of Marine Environment and Systems (G-W/TP12), Room 1200, U.S. Coast Guard Headquarters, 2100 Second Street S.W., Washington, D.C. 20593, (202) 426-9578.

SUPPLEMENTARY INFORMATION: On 27 June 1977, the Coast Guard published a proposed rule (42 FR 32670) concerning these amendments. Interested persons were given until 11 August 1977 to submit comments. On 4 August 1977, the comment deadline was extended until 2 September 1977 (42 FR 39408). On 27 October 1977, the deadline for comments was extended until 15 December 1977, and three public hearings were scheduled (42 FR 56625). The public hearings were held as scheduled: at New Orleans, LA, on 22 November 1977; at Washington, D.C., on 28 November 1977; and at St. Louis, MO, on 30 November 1977. Eighty-five (85) people attended the three public hearings, and 133 written comments were received between 27 June 1977 and 15 December 1977 in addition to the comments received during the public hearings.

Drafting Information: The principal persons involved in drafting this rule are: Lieutenant Commander John G. Busavage, Project Manager, Office of Marine Environment and Systems, and Michael N. Mervin, Project Attorney, Office of Chief Counsel.

Discussion of Major Comments

General Comments

1. There were 28 comments requesting public hearings. Three public hearings were scheduled and held in November 1977, at New Orleans, LA, Washington, D.C., and St. Louis, MO, in response to those requests.

2. Six comments requested time extension for comments. The initial comment deadline of 11 August 1977, was first extended to 2 September 1977 (42 FR 39408, 4 August 1977). It was later extended until 15 December 1977 (42 FR 56625, 27 October 1977) to allow time for the public hearings, and further written comments.

3. Two comments suggested that a joint Coast Guard-industry working group be established to draft the final regulations. This request was denied as being inappropriate. However, all industry and general public comments were completely considered in arriving at this final rule.

4. Numerous industry comments generally questioned the need for such detailed amendments and especially questioned their application to smaller vessels in the towing and offshore service industries. A number of changes were made in response to these broad comments. A supplemental notice of proposed rulemaking (NPRM), to be issued soon, will propose to give vessels of 100 or more gross tons but less than 400 gross tons alternatives to installing oil water separators. This supplemental NPRM is necessary because allowing alternatives to oil water separators is substantially different from the orginal proposal of June 27, 1977. Upon receipt of public comments a final rule will be issued for 33 CFR 155.330 to 155.410. In the meantime, the existing regulations in 155.330 to 155.410 remain in effect.

5. The National Oceanic and Atmospheric Administration and the New York Attorney General's office objected to Coast Guard authority to grant exemptions to any part of the regulations. There are strict guidelines for granting exemptions. The criteria for granting exemptions are considered reasonable, and the agency issuing regulations may relax the requirements in the absence of mandatory statutory constraints on the regulatory function if the guidelines are followed. The wide variety of conditions, locations, operations, equipment, and personnel being regulated makes some exemption authority necessary.

6. Five comments objected to granting discretion to the COTP/OCMI throughout the regulations. Where COTP/OCMI discretion is provided, it is deemed necessary to provide for reasonable compliance under varying local conditions. It is impossible to envision every conceivable contingency in a rule. Under the criteria specified for COTP/OCMI discretion, there is an insignificant hazard to the environment and there should be no unreasonable burden to any parties concerned.

7. Several comments stated that marinas should not be exempt. Marinas are not exempt if they transfer oil to or from vessels with a capacity for 250 barrels or more of oil. The 250 barrel limit is a reasonable guide since bulk transfers justify stringent regulations, while small quantities do not pose the same environmental risks. Also, enforcement for every marina fueling is not feasible or cost effective.

8. One comment stated that public vessels should not be exempt. Public vessels are exempted by the statute (FWPCA). However, Executive Order 11752 requires that Federal agencies take the lead in compliance with environmental standards. It is expected that public vessels and facilities will use these regulations as guidelines for their operations. Although transfers within or between public vessels themselves are exempted, all other transfers involving public vessels are regulated.

9. One comment cited Commandant Instruction 5000.2B policy against over-regulation of waterborne commerce. These regulations are essentially what was issued in 1972, revised and clarified with improvements based on experience.

10. One comment urged that 33 CFR 126 and 33 CFR 154 be reconciled as to facilities. There are no conflicts apparent in the existing Part 126 and Part 154 as amended. An advance notice of proposed rulemaking was published on April 10, 1978 (43 FR 15108) which would place all facility regulations (including those now in Parts 154 and 156) in 33 CFR Part 126. Completion of this project is some time off. The regulations will be consolidated for convenience.

11. The title of these regulations as printed in the **Federal Register** of 27 June 1977 (42 FR 32670) was "Pollution Prevention, Vessel and Oil Transfer Facilities". When the regulations are printed in the Code of Federal Regulations (CFR), only the heading for

each part of the CFR will be printed. The descriptive wording of the regulations is thus eliminated, and the industry and general public could be misled as to the subject of each part of the CFR. To correct this, headings were given to each part.

12. The $65 million economic evaluation of the original proposal on June 27, 1977 (42 FR 32670) was based on estimates of costs for vessels to comply with the equipment requirements for oil water separators, monitors and alarms. Those requirements are deleted from this final rule and will be discussed in a supplemental notice of proposed rulemaking to be issued later. The economic assessment for the revised equipment requirements will be included in the supplemental NPRM.

This final rule generally relaxes existing requirements for containment on vessels and makes some changes to contents of the operations manual and oil transfer procedures, which can be accommodated with only minimal expense to vessel or facility owners. There may be some costs incurred by individual facilities to shield lighting or provide monitors if a COTP expressly requires such improvements as allowed by the final rule. However, the cost of monitors is under $5,000 and will seldom be required, while shielding of lights is very inexpensive.

The cost estimate for bulk oil transfer facilities and vessels to comply with this final rule is well below $3.5 million.

Specific Comments: Part 154

1. § 154.100—(a) Fifteen comments questioned the exemption for marinas in paragraph (c) of this section. Marinas do not normally transfer quantities of oil that justify stringent pollution regulations. Also Coast Guard personnel are not available to monitor all small quantity oil transfers. Marinas are subject to Part 154 during actual transfers involving vessels with a capacity of 250 or more barrels of oil.

(b) One comment suggested changing "capacity" to "amount" of 250 or more barrels of oil. A real pollution risk is posed for vessels with a capacity for 250 or more barrels of oil even when less than that amount is actually being transferred. The regulations are aimed at preventing discharges which are likely and threaten substantial pollution.

(c) Several comments suggested that towboats be exempted if marinas were. Marinas are not totally exempt and towboats with sizable fuel and lubricating oil tanks and machinery space bilges are a much larger pollution threat than small recreational vessels.

2. § 154.105—(a) The definition of "transfer" was added to all 3 parts for clarity since it is mentioned throughout Parts 154, 155, and 156. It makes clear that transfers of oil within vessels are also subject to the regulations.

(b) Two comments asked why the definition of "offshore facility" is limited to the navigable waters while vessels are regulated in the contiguous zone as well. The 1972 Federal Water Pollution Control Act (FWPCA) definition of "offshore facility" is used in the regulations. With the Clean Water Act of 1977 (CWA) the definition has been expanded to include the contiguous zone and beyond. A notice of proposed rulemaking will be published to allow public comment before incorporating the CWA amendments into the regulations. This final rule does not apply to Outer Continental Shelf (OCS) facilities.

(c) One comment suggested that "oil" be defined with a list of oils. This would be more restrictive than the statutory definition, which is sufficient. The definition has been deleted in the final rule because it added nothing to the statutory definition.

(d) One comment suggested defining "tank vessel" in terms of 250 barrel capacity and deleting "vessel" definition or specifying types. The definition of "vessel" has been dropped in the final rule, because the statutory definition is used. The definition of "tank barge" and "tank vessel" are retained, and "tank vessel" is limited to vessels that carry oil in bulk as cargo or in residue.

(e) The definition for "incompatible products" is nonspecific and may lead to confusion among users. Pending Coast Guard rulemaking addresses incompatible products. Therefore, this definition and references to incompatible products have been deleted from the final rule.

3. § 154.107—(a) This subpart was reworded so that the COTP is required to consider economic or physical practicality in granting an alternative since the regulations should not be altered without a good reason even where alternative protection is provided.

(b) The EPA suggested that alternative requests should document the equivalency of environmental protection and allow the Coast Guard to require other information such as economic and environmental assessments. Documentation of alternatives has been added, to include documentation of safety and pollution protection, and the COTP may request additional information, if necessary, to evaluate the proposed alternative. It will necessarily include an economic and environmental analysis. However, since an equivalent level of protection is required no formal environmental impact statement is necessary.

(c) Several comments requested that existing waivers be "grandfathered". This cannot be allowed since the waivers are now split into alternatives (granted by the COTP) and exemptions (granted only by the Commandant). All COTPs should review any existing waivers they have granted under sections 154.330 and 156.107 of the prior regulations to determine which ones may qualify for alternatives and which ones now will require Commandant approval as exemptions.

(d) One comment suggested that the COTP should have to respond within 30 days of receipt of a request for an alternative. This comment has been adopted as a reasonable time period for COTP response to requests, in light of a facility's need for planning operations.

4. § 154.108—(a) The National Oceanic and Atmospheric Administration (NOAA) suggested that exemptions be granted primarily based on minimal likelihood of oil discharge. This of course is a consideration. However, economic or physical practicality and availability of alternatives are equal factors in weighing an exemption request. The final rule was changed to prohibit an exemption that would substantially increase the likelihood of an oil discharge.

(b) NOAA also suggested other sources of information should be considered in addition to the facility's application. The regulation does not force the Commandant to consider only the facility's information. The Coast Guard's operational experience with the regulations and facility operations in general is also applied in deciding whether to grant any exemption.

(c) One comment requested that exemptions also be allowed where compliance would create a safety hazard. None of the pollution regulations are designed to create a safety hazard. Safety will always be considered in any exemption request, and safety has been added as a factor to be documented in any exemption request.

(d) The Commandant's office which determines exemptions has been specified for information purposes and as an express delegation of authority. The same was done for sections 155.110 and 156.110 of this chapter.

5. § 154.110—(a) One comment suggested that 30 days is sufficient to advise the COTP under paragraph (c) of this section. The word "immediately" has been replaced by the phrase "within 5 days" to allow more time, but 30 days is unduly long.

(b) One comment asked if an existing facility is required to resubmit a letter of

intent and modify its operation manual. A sentence has been added to paragraph (a) of this section that exempts existing letters of intent from resubmission. Contents of operations manuals are specified in § 154.310 and must be amended in accordance with § 154.320. If any problems in complying arise, an alternative or exemption may be requested.

6. § 154.120—Seven comments requested that tests and inspections be conducted reasonably, at specified times or only after a written request from the Commandant. It is understood that only reasonable tests or examinations will be required and then at reasonable times. However, examinations must be realistic and advance warning of examinations would likely lessen their utility. Facilities should be operated in compliance with the regulations at all times, not just at specified predesignated times. Normally, these examinations would be conducted during daylight working hours, however, the COTP must be able to conduct them whenever the facility is operational.

7. § 154.300—(a) Two comments suggested deleting the requirement to translate the operations manual where English is not predominant. Manuals are to be working manuals for personnel involved in oil transfers, and must be understood, as a minimum, by all persons in charge. The final rule has been changed to reflect this.

(b) Two comments requested confidentiality for operations manuals. This is generally not possible under the Freedom of Information Act (FOIA) which sets forth standards for release of information in public records. Another wanted a reference to the FOIA in the regulations. This is accomplished in the note following this section.

(c) Sixteen comments stated that there is no need for biennial review of operations manuals. This requirement has been replaced with review when substantial amendments are made and at COTP discretion.

(d) One comment suggested that the letter of adequacy be deleted. This suggestion was not accepted since the letter of adequacy is considered a reasonable, efficient means to ensure review of operations manuals.

(e) One comment suggested that the manual require a facility to demonstrate the emergency shutdown system to the vessel person in charge. Section 156.120(w) (8) and (12) requires that each person in charge understands emergency and shutdown procedures. If a vessel person in charge is not satisfied at the pre-transfer conference he or she should not proceed with the transfer. However, a demonstration of emergency procedures is not necessary for every transfer.

(f) One comment suggested submitting amended manuals to the COTP 18 months after the effective date of the rules for approval. This is unnecessary since existing manuals with proper indexing are now being "grandfathered." Three other comments sought exemption from the letter of adequacy. This is not necessary for the same reason.

(g) One comment suggested that paragraph (f) be amended to make clear that a vessel's person in charge does not get a copy of the facility manual. The word "facility" has been added in front of "person in charge" to make this clear. Section 156.120(t)(2) requires each person in charge to have a copy of the operations manual or vessel oil transfer procedures, as appropriate. Of course, each may refer to the other's manual or procedures before and throughout the transfer operations in order to comply with section 156.120(w) (5), (8) or (12).

8. § 154.310—(a) Twenty-three (23) comments suggested that the operations manual contents should not be in any specified order or requested a delay in rewriting manuals. In answer to these comments, paragraph (c) was added to this section to permit use of a cross referenced index page in the specified order. Also proposed subsection 154.310(b) was deleted since the information was for the convenience of COTP inspections, and it is available on file at the COTP office.

(b) One comment suggested that paragraph (a)(2) cover only safety equipment covered by this part. This is too restrictive; personnel should know the location of all safety equipment required to be at the facility by any regulations or law.

(c) Seventeen (17) comments suggested that time limits not be required for gaining access to oil spill containment material. Section 154.545(c) provides that time limits are to be set by the facilities themselves subject to COTP approval. This is necessary to ensure that equipment sharing agreements are realistic and can provide adequate response to oil discharges.

(d) Two comments suggested deleting the requirement to include in the manual the number and location of all operations manuals and the information on monitoring devices. It was decided that it is not necessary to include the number and location of operations manuals, and this was deleted. However, it is useful to include data on monitoring devices when they are required. The language in (a)(13) was changed to read "if required by § 154.525", since only rarely should COTPs require monitoring devices at facilities.

(e) One comment suggested deleting the requirement to send the operations manual with the letter of intent. This was not accepted since the COTP should know that the facility operator has established procedures which should permit the facility to be operated in an environmentally sound and safe manner.

(f) Two comments suggested deleting paragraph (a)(5)(ii) since cargo information is the responsibility of the vessel operator. This was not done since the data is readily available and is needed by the facility for safety and environmental reasons. This paragraph has been changed to list the necessary data rather than refer to another regulation. Also, paragraph (a)(5)(i) was changed from "category and trade name" to "generic or chemical name" for clarity.

(g) One comment suggested putting personnel names and telephone numbers on a separate sheet for easy amendment. This is a good idea and the regulations allow the entire operations manual to be loose leaf, which would facilitate any amendments.

(h) One comment suggested a briefer manual with details provided in a more complete procedures manual. This has not been accepted since the more detailed guide would likely not be used. The operations manual should be a working publication and a single source for learning standard operations as well as emergency procedures at a facility.

(i) Several comments suggested that NAVIC 9–73 language be added to the regulations or preamble. NAVIC 9–73 was issued by the Coast Guard in 1973 to interpret 33 CFR 154, 155 and 156. This has not been done since in some regards NAVIC 9–73 has become obsolete with this revision. To the extent this preamble or the preamble to the proposed version in the Federal Register of June 27, 1977 (42 FR 32670) fail to answer any questions a new interpretation may be required at a later date.

(j) Proposed item (7) of the operations manual has been deleted as explained in paragraph 2(e) above; proposed item (22) has been added to proposed item (16); and the items have been renumbered in the final rule because of these changes.

9. § 154.320—(a) Two comments requested that facility operators be allowed 30 (not 14) days to comment on COTP proposed amendments to the operations manual, and an unlimited time to petition the Commandant. These suggestions were not adopted since the existing regulations had the same

requirements and the periods specified are reasonable.

(b) Two comments stated there is no need for COTP approval of minor changes. Paragraph (d) has been added in the final rule to allow minor changes in personnel or telephone number lists without prior COTP review.

(c) Three comments suggested there was no need for facility operators to submit proposals under paragraph (b) 30 days before the effective date, and said the COTP should be given 10 or 30 days to respond instead. These suggestions were not accepted since paragraph (b) was added to the prior rules to give the facility operators the right to initiate changes to the manual, and the COTP ought to have some review of all amendments. Paragraph (c) of this section provides that the COTP is to respond before the amendment is effective or immediately if an immediate amendment is requested. This is entirely reasonable.

10. § 154.325—(a) One comment suggested adding "either" after "effective" in paragraph (c) for clarity to show that there are 3 options, and this has been done in the final rule.

(b) Three comments suggested that previously accepted manuals should automatically receive letters of adequacy. This was not done since many changes have been made in the operations manual. Three years are allowed to update manuals, except that new facilities and ones making substantial amendments to their manual must get a letter of adequacy at the start of the operations or substantial change.

(c) Fourteen comments suggested that a simple notation on the operations manual would be better than a letter of adequacy. This suggestion was not adopted since the letter can be easily copied and placed in copies of the manual, and provides an effective means for the COTP to ensure a thorough review of operations manuals.

(d) One comment suggested using a permit or certificate rather than a letter of adequacy. A letter of adequacy ensures that certain matters are addressed in the operations manuals, but does not constitute Coast Guard approval or certification of any particular procedure or equipment mentioned. It addresses the scope of the contents rather than the details of the manual.

11. § 154.500—(a) Six comments discussed existing hose having the test and burst pressure stamped on hose. Paragraph (g) in the final rule requires that the burst pressure and the pressure used for the test required by section 156.170 not be on the hose to prevent confusion with the maximum allowable working pressure (MAWP). The burst and test pressures must be recorded at the facility but not on the hose. Other pressures marked on hoses presently in use may be obliterated by any suitable means until replaced by hose with new, proper markings.

(b) Twenty-three (23) comments suggested deleting paragraph (e), especially grade and product data for all products transferred. These comments have led to changing paragraph (e) to allow "oil service" but the remaining data still must be provided either on the hose or elsewhere at the facility.

(c) One comment questioned the reliability of back pressure nozzles and another questioned their use with large hose. There is no need to test back pressure nozzles since they are reliable for the small hoses with which they are used. They are not intended for large hose, but large hose are not used with flush deck fittings and containment is feasible for manifold connection points of large hose normally. Where containment is not possible for manifold connection points of large hose an alternative or exemption may be granted.

(d) Four comments were received that hose made before 1973 should be allowed even if not complying with the regulations. Most pre-1973 hose will be out of service hence the reference to 1973 is omitted. If a facility does have older hose in storage that does not meet all of the requirements, an alternative may be requested for unused pre-1973 hose under § 154.107.

(e) Four comments suggested color codes on hose and three suggested a multi-product or general category hose marking. As noted in paragraph (b) above, "oil service" is acceptable in paragraph (e)(1). Color coding was not deemed practical for all facilities.

(f) One comment suggested deleting paragraph (b) and two others suggested changing "maximum" to "minimum" and deleting "or more" in (b)(1). Neither suggestion was accepted, since the intent is to ensure that the hose can withstand normal working pressure of 150 psi with a burst pressure 4 times that amount. Most oil hoses in use have a maximum allowable working pressure (MAWP) of 150 psi with a 600 psi minimum design burst pressure.

(g) One comment suggested that full threaded connections should be changed to "ACME" type couplings for hose up to 2 inches in paragraph (d)(1), and two other comments suggested that slip on, welded and weld neck flanges should be allowed. The wording of paragraph (d) has been changed to make clearer that there is a choice among threaded connections, quick connect couplings, or flanges. The quick connect couplings must, however, be approved by the Commandant.

(h) One comment suggested clarifying paragraph (d) by adding an "or" after each option. The word "either" has been added to clarify that an option exists.

12. § 154.510—(a) One comment was received which suggested that loading arms constructed in the field should be tested locally rather than meet ANSI standards. This has not been changed in the final rule. The intent of the regulations is to have a uniform and safe standard; not one subject to local modification. An alternative under § 154.107 may be requested for locally constructed arms.

(b) Two comments suggested that the regulation should apply only to loading arms placed into service after June 30, 1973. This change has been made in the final rule since it was overlooked in the NPRM that old loading arms will not be replaced as fast as hose. They should not have to be replaced at great expense to comply retroactively with a regulation first effective on July 1, 1974.

13. § 154.520—(a) Three comments suggested that blanking devices for gasoline hose can create a safety hazard. The final rule remains as in the NPRM. There should be no hazard if gasoline lines are properly purged of fumes prior to blanking. The unsafe alternative would be to leave hose open to drain on decks where an even greater safety and pollution hazard would result.

(b) Fifteen comments suggested exempting dry, new, unused, or spare hose sections. The final rule has been changed to exempt new and unused hose, but none that have been used for oil transfer, which pose a risk of leaking oil through the unconnected ends of the hose.

(c) One comment suggested changing "each end of each hose" to read "the end of each hose". The regulation has been changed to read the "ends of each hose" to make it clear that a disconnected hose is to be blanked off at both ends to prevent oil leaking out. New, unused hose is exempt.

14. § 154.525—(a) Fourteen comments requested a definition of monitoring devices. This was added in § 154.105.

(b) Seven comments objected to the high cost of monitor installation and requested cost analysis. This section is intended only for those cases where visual surveillance is not sufficient to detect oil spills in very sensitive areas or where a complex operation would likely result in a spill without the device present. In each case use of the oil monitor must significantly increase the probability of detection or aid in limiting

the spread of a spill by early detection. Some devices are available for less than $5,000.

(c) Nine comments stated that existing monitors are not reliable. There are devices on the market which effectively detect oil sheens on water.

(d) Seven comments suggested deleting this entire section. The section remains in the final rule to allow the COTP another option in the case where an oil monitor will significantly increase the probability of detection which will aid in rapid control of an oil spill in a sensitive area, or where the products or complexity of operations increase the risk of spill.

(e) Two comments suggested that monitors be required for all transfers with no COTP discretion, but only after they prove reliable. Existing monitors for facilities are reliable, but the COTP may only require them in cases where the specified criteria exist. It would be an unreasonable economic burden, at this time, to require all transfers to be monitored by devices.

(f) Eight comments suggested that visual means are preferable to monitors. In the vast majority of oil transfers visual checks are preferred. However, under the circumstances specified, continuous monitoring is justified due to the higher risk.

(g) Thirteen comments objected to possible arbitrary and varying interpretations among different COTPs. Of course, over-reaction is possible with any regulations. However, the criteria listed are limiting, and this preamble stresses that use of monitoring devices is to be required only in the case where their use will "significantly" expedite response efforts to limit the size or severity of an oil discharge.

(h) Two comments objected because the monitors would not distinguish between facility spilled oil and oil from nearby sources. The purpose of the monitors is to detect oil and not attach legal responsibility for the oil on the water to that particular facility.

(i) Three comments stated that monitoring is a government duty. The Coast Guard and other agencies, State and Federal, do monitor, but the immediate legal obligation falls on those who own and transfer oil.

(j) One comment suggested that the Coast Guard publish a list of approved monitoring devices. This is not necessary since the devices will not be required often. The COTPs will provide data on devices available in their area when and if they require the installation of devices.

(k) One comment stated that all four criteria mentioned should be satisfied before the COTP can require monitoring devices. This is too restrictive on the COTP, and would limit the prevention methods to significantly limit the spread and severity of oil spills.

(l) The National Oceanic and Atmospheric Administration (NOAA) suggested COTP consultation with State and Federal agencies before requiring monitors. The COTP may consult with any agency before requiring monitors, but the COTP is not required to do so since a quick decision may be needed which precludes such consultation. NOAA also suggested that monitors should be mandatory for environmentally sensitive areas, or where the product transferred poses a significant threat. Other methods are better suited to prevent oil spills, the monitors would seldom be used, and the COTP should make the decision on monitors using the criteria specified.

15. § 154.530—(a) One comment stated that no facility can provide catchment between the face of the dock and a vessel and two others said more spills come from stowed hose, not ones moving for connection. The intent of this section is not to require containment over the water. Blanking of hose until connected and use of hose complying with section 154.500 should prevent most spills over the water.

(b) One comment pointed out the hazard from "lipped" small discharge containment along the edge of a pier or bulkhead. There is indeed some tripping hazard from any lip or protrusion on a dock, yet if sufficiently high to contain the oil required and properly constructed and marked the hazard should be minimal or eliminated. The same comment stated that if the pier is solid there would be no spill over the edge of a pier with no lip. This would be true only for small quantities of spilled oil that do not reach the edge of the pier before being cleaned up.

16. § 154.540—Nine comments suggested that the facility be required to provide some means to receive oil residue from containment systems on unmanned barges. While this is a very good suggestion, the Coast Guard has no clear authority to require a facility to provide such a service to a barge. Section 155.310(a)(2) requires tank vessels to have a means to drain containment devices. Section 155.310(b) requires proper draining of portable or fixed containment inside 4–8" coamings and the coamings themselves on barges. This can be done on the barge itself or through a voluntary arrangement with the facility, as long as oil is not discharged into the water.

17. § 154.545—(a) Fourteen comments stated that the section is unduly restrictive, vague, subject to conflicting interpretations, or punitive. The regulation sets specific criteria for determining time limits for deploying containment equipment and for requiring pre-transfer booming. Paragraph (d)(5) is added to ensure that pre-transfer booming is only required when it is the "only practical" way to avoid environmental damage from an oil transfer. It will only be unusual situations that require pre-transfer booming, and there should be no great COTP variance in interpreting the regulation with the guidance set forth in the section and this preamble. There is no intent for pre-transfer booming to be a common practice.

(b) Ten comments discussed the requirement for "enough" containment for "any" oil discharge. Paragraph (a) has been modified as suggested to require containment for any oil discharged on the water from operations at that facility. It requires sufficient containment to control the spread of oil whether from the facility or any vessel transferring oil at the facility, but does not require that containment equipment be available to contain oil from adjacent sources of oil not related to operations at that facility.

(c) Fourteen comments stated that time limits are not practical due to weather variations. The regulation requires time limits to ensure that equipment sharing is an effective means of containing spills at the facility. The facility itself establishes the time limits and may provide for a different time limit for bad weather. However, the time limit must be a reasonable response time to deal with discharges effectively and must be approved by the COTP concerned.

(d) One comment suggested deleting (d) since each COTP already has that authority and there is no need to emphasize it. The authority to deploy containment before transfer is specifically mentioned because in some rare cases it is the only practical way to protect the environment from particularly risky oil transfers.

(e) Five comments objected to the excessive cost of pre-transfer booming and one feared the effect on competition. As stated, such deployment will only rarely be required, and it is inexpensive in relation to the equipment costs which all oil transfer facilities must incur for the containment itself.

(f) Seven comments stated that booms will not work in tides and strong currents, and reference to currents has been deleted in paragraph (d). However, the facility operator should take currents into account in paragraph (c)(4) when establishing time limits for deploying booms in the event of a spill. While

booms may not contain oil when deployed in rapid currents, they may be effective in directing the movement of the oil and in protecting some areas from environmental damage.

(g) One comment suggested that the COTP conduct a hearing before acting under (d). No hearing is provided for because of the need for immediate action in most cases, but the COTP will certainly consider input from the facility in making a decision to require pre-transfer booming. If the COTP insists on the booming and issues a suspension order, the operator may appeal the suspension order as provided in section 156.113(b).

(h) A number of comments objected to booming before transfer because it could delay cleanup; may be unsafe or impossible; and it is unnecessary as long as containment is available. Pre-transfer booming can be required by paragraph (d)(5) when it is the only practical means to reduce environmental damage under any of the circumstances presented in paragraph (d)(1)–(d)(4). It will only rarely be required. Safety considerations, particularly with gasoline transfers, will always be weighed by the COTP before requiring pre-transfer booming.

(i) NOAA commented that no COTP discretion should be allowed when environmental sensitivity or a significant threat exists. Such a safeguard is expensive and the relative benefit to the environment should be weighed against the feasibility and expense of booming. NOAA would allow COTP discretion in the case of prior record, large or complex operations, and swift current. COTP discretion is allowed throughout, but current has been removed as a criterion for booming since swift current normally makes booming ineffective.

(j) NOAA also suggested that the COTP should be required to consult with appropriate state and Federal agencies in determining the sensitivity of the area and significant threat. Of course the COTP should consult with any available source of data on all of the criteria. However, it may not be reasonable to consult with other agencies in all cases, especially where conditions require a rapid decision. Regional contingency planning and the Regional Response Teams are the appropriate mechanisms for the COTP consultation process.

(k) A comment from a Coast Guard unit in the Eleventh District stated that "facility type" lightering vessels (lightering beyond 12 miles) should comply with this section also. Although vessel to vessel transfers within 12 miles are subject to these regulations, this suggestion exceeds the scope of the original proposal. The Port and Tanker Safety Act of 1978 (§ 5(17)) requires specific regulations for offshore lightering, and a Notice of Proposed Rulemaking for offshore lightering operations was published on May 31, 1979, 44 FR 31486.

18. § 154.550—(a) Seven comments suggested that voice communications are adequate. Voice communications alone have not been satisfactory in many circumstances due to background noise.

(b) One comment stated that the existing regulation is sufficient to control emergencies. There were no limits set in the original regulations on the amount of time required to stop the flow of oil, but this is necessary to ensure rapid, effective action to minimize the size of any accidental oil spill.

(c) Four comments suggested that pumps be stopped prior to closing the pipeline to prevent rupture. Proper closure sequencing may be necessary and it is certainly not precluded by the regulation, provided the applicable time limit in paragraph (c) is met.

(d) Twenty-four comments were received concerning the time limits set for emergency shutdown. Most objected that the time was too fast and would cause equipment damage or rupture. Several suggested 75 to 90 seconds or 3–4 minutes was more reasonable. Others suggested 30–60 seconds to begin shutdown or offered general wording such as "means to stop the flow of oil to minimize loss in event of hose rupture or loading arm failure". All of these suggestions were considered, but the proposed time limits are considered feasible and very close to industry suggested time limits. Existing facilities, are given until 1 November 1980 to meet the 60-second shutdown requirement. New facilities or parts of facilities starting operations after that date must meet the 30 second requirement. The Coast Guard believes proper action can reasonably be taken within the limits set forth.

(e) Two comments suggested that "remotely" be deleted from paragraph (a)(2) to permit manual shutdown. This comment has been adopted and "remotely" is deleted from the final rule to allow manual or remote control shutdown.

(f) Several comments addressed valves. Three suggested that the valve location be left to the facility operator. One stated that if the emergency valve is too close to the manifold valve both may be damaged. Three objected that the industry's rapid shutdown record does not show a need for added quick acting valves. One asked how close to place the emergency valve to the manifold valve, and one suggested that valves are reliable and no backup valve is needed. Two objected to the high cost of a motor operated valve and said that portable communications are sufficient. The final rule does not specify a second valve, although that may be the cheapest or easiest emergency means of shutdown. The means, which may be a combination of pump control, surge tanks and valve controls, are left to the facility operator, together with the specific location. The primary intent is to avoid large continuing discharges due to failures of hose, loading arms or manifold valves, which are the most likely points for a rupture or accident during oil transfers.

(g) One comment stated that there is no rational relation between the effective date for existing facilities and the time required to stop the oil flow. The final rule has been changed to require facilities and parts of facilities that start operations before November 1, 1980 to achieve emergency shutdown within 60 seconds. All existing facilities thus have substantial time to ensure they can shutdown within that time limit. Any facilities starting operations after that date must be able to shutdown within 30 seconds of discovery of the oil discharge.

(h) One comment suggested letting the COTP require devices where a facility has a poor oil spill record. Emergency shutdown is important for all facilities, since lack of prior spills does not rule out accidental damage to the manifold valve.

19. § 154.560—One comment suggested vessels post a bond before receiving expensive commnications gear provided by a facility. The security of communications gear is a matter between the facility and vessel. Paragraph (e) has been modified to correct the references to 46 CFR 110.

20. § 154.570—(a) One comment asked if the facility must provide adequate lighting for vessel to vessel transfers at the dock. Self-propelled vessels are required by section 155.790 to provide their own lighting and that for barges moored to them for oil transfer. A facility must provide lighting for all barges at the facility where no self-propelled vessel is involved.

(b) One comment asked why lighting is singled out for special testing when the COTP has authority to require necessary testing of all facility equipment. The final rule relaxes the prior requirement to meet specific lighting intensities during all oil transfer operations between sunset and sunrise. Only when the lighting appears

inadequate to the COTP is specific testing necessary. Lighting is a basic prerequisite for any night operation and objective standards are needed where the COTP is in doubt as to the adequacy of lighting.

(c) One comment suggested modifying paragraph (d) to change "interfere" to read "distracting or misleading" to navigation. The wording has been changed in the final rule to insure that lighting is shielded so that navigation on adjacent waterways is not adversely affected. The COTP must decide if there is interference with navigation.

(d) The illumination levels in paragraph (b) (1) and (2) have been left at 5.0 and 1.0 foot candles, as in the present rule. Those levels were based on a 1972 Coast Guard survey of facility lighting. No new data indicates a lower level is sufficient. The same is true for vessel lighting in section 155.790(b) (1) and (2).

21. §§ 154.710 and 154.730 as proposed are withdrawn. The existing sections 154.710 and 154.730 remain in effect although not republished with this final rule.

22. § 154.740—One comment suggested that records over 24 months old are not needed. In paragraph (e) of the final rule "each inspection" was changed to "all inspections * * * within the last 3 years". This will give the COTP a reference point to ensure that prior deficiencies have been corrected, but will allow facilities to dispose of inspection records after a reasonable period.

Specific Comments: Part 155

1. § 155.100—(a) One comment stated that it is not clear that all vessels operating in U.S. waters are subject to Part 155. The definition of "vessel", in subsection 311(a)(3), FWPCA applies to these regulations. It applies to all vessels, foreign or U.S. in the navigable waters of the U.S., or in the contiguous zone. A proposal to extend the regulations in 33 CFR 154, 155, and 156 beyond the contiguous zone, as the Clean Water Act of 1977 permits, is being prepared.

(b) Three comments suggested that this section departs from the 1973 Convention and should not apply to foreign vessels, unless provision is made for certification of foreign equipment. The existing Part 155 applied to foreign vessels too, as does the final rule. 46 CFR 162.050 (44 FR 53352, September 13, 1979) allows for certification of foreign equipment; however, sections 155.330 through 155.410 are not being issued as final rules due to substantive changes in the requirement for oil water separators on small vessels.

(c) One comment misinterpreted the last sentence in the proposed section to exempt uninspected U.S. vessels from compliance with Part 155. The last sentence has been deleted since it adds nothing to the regulation and is misleading. Part 155 applies to all vessels (not public vessels), foreign or U.S. 46 CFR Chapter I states that to get a Certificate of Inspection U.S. vessels must comply with Part 155 design and equipment requirements, among other requirements. Another comment asked if Part 155 applies to uninspected river towboats. The answer is yes, if they meet the criteria specified in the applicable section.

(d) One Coast Guard comment suggested that vessel to vessel transfers be treated like a facility type operation. The final rule standards are sufficient as written. A notice of proposed rulemaking for offshore lightering operations was published on May 31, 1979, 44 FR 31486.

2. § 155.105—(a) The definitions in § 154.105 apply to Part 155.

(b) One comment suggested specific definitions of "oily residue" and "oily mixtures". These are not terms of art and have their general meaning of some type of combination of oil and water or other material.

3. § 155.107—(a) The EPA recommended that each request for an alternative should document the equivalency of the alternative proposed. This was added to paragraph (a)(3) in the final rule and requires an equivalent level of safety and environmental protection.

(b) Also, to avoid requests for alternatives where not essential, the requirement was added that compliance with the existing regulation must be shown to be economically or physically impractical. This will avoid excessive local modification of the regulations.

(c) One comment suggested that the COTP respond to alternative requests within 30 days, and this has been added in paragraph (b) because it is a reasonable period of time.

4. § 155.110—One comment suggested adding "or creates a safety hazard" to paragraph (a)(2)(i). Paragraph (a)(2)(ii) has been changed to expressly add safety as a consideration in granting exemptions. See also paragraph 4(d) of the Part 154 preamble comments.

5. § 155.310—(a) The language in paragraph (a)(1) (i), (ii), (iii), (iv) and (v) was changed to clarify the requirements for hoses and loading arms.

(b) Paragraph (b)(1) was changed to require that the specified capacity exist in all conditions of vessel list or trim during the loading operations as required by paragraph (a)(1), and paragraph (b)(2) was changed to expressly allow fixed or portable containers within the coaming allowed for tank barges.

(c) New material was added at (b)(3) and (4) to make clear that if a tank barge uses a coaming instead of complying with paragraph (a), it must still be able to keep leaked oil within the coaming and portable containers until properly drained or removed, without discharging oil into the water.

(d) One comment suggested adding a definition of "mechanical means of closing scuppers" to paragraph (a)(3). The means that are acceptable are valves, threaded caps, or threaded plugs which eliminate the need for placing rags, concrete, plastic or wooden plugs or devices in or over drains in the fixed containment system. The procedures presently required by 46 CFR 35.35–10 for plugging general deck scuppers remain valid.

(e) Twelve comments suggested that facilities receive the product from tank barge containment systems because barges lack easy means to drain fixed containment. These regulations are not designed to require facilities to provide services to vessels. Arrangements between vessels and facilities for removal of oil spilled into containment systems are certainly permissible, but this is a matter to be resolved by those parties.

(f) Two comments suggested peripheral coaming instead of 4–8" coaming around each tank hatch. Coaming around the edge of a tank barge's entire deck poses serious safety and stability problems, which make it undesirable.

(g) One comment suggested that the size of tank barge coaming be left to local COTPs. The COTP may grant alternatives where the conditions of § 155.107 are met, however, generally, the 4–8" size is reasonable.

(h) One comment suggested that tank barges should not have a choice of paragraphs (a) and (b) but should have to have 4–8" coamings in all cases. Barges should be encouraged to meet the stricter requirements in paragraph (a) if possible, but they should not be forced to have coamings. Thus, compliance with (a) is preferred, with (b) as the alternative only for barges.

(i) One comment suggested deleting "without mixing incompatible products" from paragraph (a)(2), and this has been done for the reasons stated in paragraph 2(e) of the Part 154 preamble comments.

(j) One comment suggested that (a)(1) is inconsistent with (b) (1) and (2) in regard to fixed or portable containment.

All tank vessels are required to have fixed containment, except tank barges, which must have either fixed containment or 4–8" coamings around each hatch, manifold and transfer connection with portable or fixed containers under each manifold or transfer connection point within the coaming. Barges are allowed an option which other tank vessels do not have due to deck construction which often makes large fixed containment impractical or unsafe.

(k) One comment suggested that alternative solutions for barge operators under paragraph (b) should be clarified as it is for all tank vessels in paragraph (a). Subparagraphs (3) and (4) have been added to clarify what barge operators must do if they choose the option in paragraph (b). There are no varying containment sizes as in (a); a barge need only have a one-half barrel capacity within a 4–8" coaming due to limited deck space on barges.

6. § 155.320—(a) One comment suggested that fixed containment only be required for vents or overflows in an area not enclosed by a coaming with closable scuppers. If the vents or overflows are in an enclosed area with the required capacity they are in compliance. As noted above, however, a peripheral coaming is not allowed due to the safety and stability hazard.

(b) Several comments questioned the clarity of the requirements. The section was reworded to make it less confusing. Although the section applies to all vessels of 100 or more gross tons, the first division was made by construction dates and then gross tonnage.

(c) One Coast Guard unit commented that 5 gallons containment capacity is too small for vessels of 300 gross tons or larger. The five gallon capacity applies to each fuel oil or bulk lubricating oil tank vent, overflow and fill pipe, and is limited to existing vessels over 300 gross tons. This "grandfather" provision was to avoid expensive retrofitting of existing vessels. New vessels of 300 or more gross tons must have at least one-half barrel containment for each fuel oil or bulk lubricating oil tank vent, overflow and fill pipe.

(d) Several comments concerned whether the containment was required at all times or only during transfers. The section has been revised to require fixed containment at all times to ensure it is available at the time of transfer. Portable containment, where allowed, need only be in place during oil transfer operations. Portable containment may be provided by the facility or the vessel.

(e) A Coast Guard district office commented that "lube oil" is mutually excluded from sections 155.310 and 155.320. As noted in paragraph 2 of the preamble to the proposed regulations (42 FR 32670), the exemption throughout Parts 154, 155, and 156 for lube oil is deleted. When lube oil is carried as cargo the vessel must comply with section 155.310 for containment. Section 155.320 is revised in the final rule to cover lube oil which is carried in bulk as stores for consumption by that vessel. Few vessels carry large quantities of lube oil in bulk for their own consumption, but those which do are subject to this section rather than section 155.310 which covers only cargo oil.

7. Sections 155.330 through 155.410 as proposed require a supplemental notice of proposed rulemaking to allow public comment on the substantial changes necessitated by comments received on the initial proposal. The existing regulations in sections 155.330 through 155.410, therefore remain effective. The economic and environmental analyses for all of Parts 154, 155, and 156, except those sections, have been revised to cover the impact of all revisions, except those dealing with oil water separators, monitors, alarms, and other equipment required by proposed sections 155.330 through 155.410. New economic and environmental analyses for those sections will be completed before a final rule is issued on proposed sections 155.330 through 155.410.

8. § 155.440—(a) Thirteen comments were received that existing placards should be grandfathered. This has been done by adding a new paragraph (b). The minor wording change in the placard clarifies the scope of the pollution laws. Existing stocks of placards manufactured before the effective date of this final rule may be used for the life of the placard.

(b) Two comments suggested that foreign vessels should be exempt because translations would be needed, but one stated that English should always be used since it is the language of the "international fleet". Foreign vessels are not exempt. The placard should be readable by the crew on board so they will know not to spill oil. Not all vessel crews know English, but all are liable for an oil spill and need to know that.

9. § 155.700 and § 155.710—As a result of numerous comments received on these sections and recent IMCO tankerman discussions, the Coast Guard plans to issue a new proposal for these sections. The existing sections 155.700 and 155.710 therefore remain in effect, and sections 155.700 and 155.710 as proposed are withdrawn in the final rule.

10. § 155.720—(a) The intent of this section is that the oil transfer procedures must be on board whenever the vessel is in operation, while their use is required only during transfer operations.

(b) Twenty comments suggested that paragraph (b) should be deleted since there is no threat from tank to tank transfer. This has not been done because a number of Coast Guard districts have documented spills from fuel day tank transfers, cargo tank transfers and other internal vessel transfers. The procedures for internal vessel oil transfers need not be so complex as cargo or fuel oil transfers to a facility or another vessel, but they should be written, available and referred to before and during internal transfers. The Pollution Incident Reporting System (PIRS) documents approximately 140 spills from internal vessel transfers each year (1973–1977). There were 138 spills of a total volume of 23,811 gallons of oil in 1977 from such transfers. Contact with the First, Eighth, Eleventh and Twelfth Coast Guard Districts recently emphasized that procedures are necessary to prevent spills from internal oil transfers.

(c) Three comments suggested that tugs should be exempt. Specific types of vessels should not be exempt; the main criterion is capacity for 250 or more barrels (10,500 gallons) of oil.

(d) Two Coast Guard districts suggested that a requirement be added in Part 156 to use the procedures for tank to tank transfers. Section 155.730 states that the vessel operator shall require the use of the oil transfer procedures for each transfer. Section 156.120(u)(3) requires the vessel person in charge to conduct each transfer operation in accordance with the oil transfer procedures. Section 156.120(v)(2) requires that all vessel personnel involved follow the oil transfer procedures for each transfer. "Transfer" is defined in Parts 154, 155, and 156 to include transfers within a vessel.

(e) Two comments objected to possible varying COTP interpretations. The final rule makes it clear that the oil transfer procedures are required on board at all times, not just during oil transfers. That had been the subject of varying interpretations. As far as the content of the vessel procedures is concerned, if one COTP or OCMI approves of them, other COTPs or OCMIs will generally accept them. However, each COTP or OCMI may require changes based on local conditions. This preamble explains the intent, but alternatives may be requested as needed.

(f) One comment stated that because fueling procedures are posted no manual is needed. Section 155.740(b) allows posted procedures. Oil transfer procedures with the contents required by section 155.750, can be simple enough to be posted. No separate manual is necessarily required.

11. § 155.740—One comment suggested that English alone should be required since it is the "official language" of the fleet. There is no true "official language" of the fleet, and the intent is that primary vessel personnel involved in oil transfers know the procedures regardless of their language. Vessel owners and operators make the decision what crews to hire, but whoever they have transferring oil must know how to do it with minimal risk of pollution.

12. § 155.750—(a) Nineteen comments addressed the requirement for the procedures to be in a certain order. The section has been amended in the final rule to allow use of a cross-referenced index for the specified order.

(b) Five comments stated that the transfer procedures should not be detailed training manuals for certified tankermen. The Coast Guard disagrees. In addition to the general knowledge a qualified tankerman has, the details for each vessel should be at the transfer site for use by the person in charge.

(c) Three comments suggested rewording paragraph (a)(4) (now (a)(3) in the final rule) to require the person in charge to be responsible for having the proper number of persons on duty. The proper number of personnel required for each type of transfer should be determined well in advance. Section 155.730 makes it clear that the vessel operator is responsible for maintaining and requiring vessel personnel to comply with the procedures. Section 156.120 (t) and (u) places the burden of compliance with the procedures on the person in charge and each person required to be on duty. Therefore, all involved vessel personnel are required to follow the oil transfer procedures approved by the COTP or OCMI.

(d) Three comments suggested deleting paragraph (a)(7), (10), (13), (14), and (15), since this material is covered elsewhere and the person in charge must already know it. Paragraph (a)(13) has been deleted, but (a)(7), (10), (14), and (15) remain in the final rule because it is necessary to specify how to meet those requirements in the oil transfer procedures. Knowledge by the person in charge is not enough; the vessel operator must ensure the procedures are effective and followed. In the final rule, paragraph (a)(7) has been moved to (a)(6); (a)(10) to (a)(2)(iii); (a)(14) to (a)(10); and (a)(15) to (a)(1) (i) and (ii).

(e) Two comments suggested that NVC 9–73 be incorporated into this section so it would not be used as a training manual. NVC 9–73 was issued over 5 years ago as an interpretation of the existing regulations. It does not belong in the regulations and is obsolete to the extent that the regulations have been changed. This preamble and the preamble to the proposal should answer most questions of interpretation. The guidance found in the preambles and any new guidance will be placed in the Marine Safety Manual (CG–495).

(f) Two comments suggested that listing all grade and trade names is an undue burden. Paragraph (a)(1) has been changed to require the generic or chemical name; to require cargo information described in § 154.310(a)(5)(ii) of this chapter; and to delete data on incompatible products for the reasons stated in paragraph 2(e) under the Part 154 preamble comments. The names are necessary to determine application of the oil transfer procedures.

(g) One comment suggested that duties not be preset by title in paragraph (a)(5) (now (a)(4)). The duties are preset by title to ensure that required functions are carried out regardless of personnel changes and to ensure that adequately qualified persons are assigned to each task.

13. § 155.760—(a) Four comments objected to possible varying amendments by different COTPs or OCMIs. The section allows for a petition to the Commandant which will resolve any conflicting requirements. Also an alternative may be requested from the COTP under section 155.107, if necessary.

(b) One comment suggested letting operators make amendments. The COTP or OCMI normally initiates the amendment process, however, the vessel operator may change the oil transfer procedures at any time, since there is no "letter of adequacy" for oil transfer procedures. Also, in response to COTP or OCMI initiated changes, a vessel operator may suggest amendments and may petition to the Commandant if the amendment is denied by the COTP or OCMI.

14. § 155.770—(a) Four comments suggested that this section be deleted as impractical and unnecessary. The intent is to prevent intentional use of the bilges for collecting waste oil and the final rule has been changed to prohibit intentional draining only. The bilge oil water separator requirement has been postponed, and greater control is needed to prevent the discharge of oil into the water during bilge pumping, which is an increasingly serious problem according to Coast Guard statistics.

(b) Five comments suggested exempting emergency situations as determined by the person in charge. This cannot be specified in the regulations, but common sense dictates that personnel safety will take precedence over pollution prevention. If a spill occurs, a civil penalty will be assessed. However, the existence of an emergency (as determined by the hearing officer) will be considered in determining the gravity of the violation and the amount of the penalty. If any pollution prevention regulation is violated, oil is spilled as a result, and if no true emergency existed at the time, the penalty is likely to be heavier. In addition, a penalty of up to $5,000 may be assessed for the violation of the prevention regulation itself.

(c) One comment stated that this section contradicts § 155.330 which assume that oil will be in the bilges and will need to be separated through an oil water separator. The regulation seeks to minimize the amount of oil introduced into bilges. Oil will still accumulate in the bilges to some extent. The oil water separator proposal (withdrawn from this final rule) would allow discharge of water from bilges after the oil had been separated.

15. § 155.780—(a) Two comments stated that personnel are readily available to close manual valves to stop oil from siphoning through a pump. In an emergency, many other things will be required, especially in a marine disaster, such as fire or collision, and manual shutdown may well be impractical. This requirement was already in the existing regulation.

(b) One comment suggested that paragraph (a) specify the vessel person in charge. This would normally be the case, but the regulation should not preclude a facility person in charge from acting. This section addresses the requirement to have a means of emergency shutdown on a vessel, not who uses it.

(c) One comment suggested setting a minimum time for closing a "quick-acting power operated valve" to prevent surging, and forbidding the use of such valves with reciprocating cargo pumps. The Coast Guard is currently reconsidering the use of quick acting valves. The final rule has been changed to clearly indicate a performance requirement, rather than require specific equipment. Surge tanks and pump control or other devices or procedures could well suffice. Vessel operators are given the option of a pump control, valve or other means and they may

choose the means best suited for their engineering plant.

16. § 155.785—One comment suggested that voice communications are adequate when vessels are side by side transferring. The regulation requires continuous communication in order to insure rapid shutdown is possible among other reasons. Voice may not be sufficient due to noise levels in the area. Paragraph (d) has been modified to correct the references to 46 CFR 110.

17. § 155.790—(a) One comment asked why a test is only required for lighting. The existing regulation required the same test standards for all night operations. The final rule relaxes that requirement to apply only in cases where lighting appears inadequate to the COTP or OCMI. Objective standards are needed in such cases. Lighting is a basic requirement for any night operation, and it is essential for safety and pollution prevention.

(b) See also paragraph 20(d) of the part 154 preamble comments.

18. § 155.800—A Coast Guard unit suggested adding "and § 156.170" after § 154.500 to ensure that vessel operators have only inspected hose on board. The suggestion was not adopted, because the intent of the regulations is to impose a sanction only if the uninspected hose is used in oil transfer.

19. § 155.805—(a) The Second Coast Guard District commented that vessel closure devices should be in place at all times, not just during transfer operations unless the transfer system is empty and gas freed. The final rule has been reworded accordingly to implement the intent of the proposal that all oil hoses for a vessel's transfer system be blanked off at all times when not connected for oil transfer.

(b) Two comments suggested that new or standby hose be exempt from this section. Paragraph (b) has been added in the final rule to exempt only new hose that has never been used for oil transfer, and could therefore contain no oil residue.

20. § 155.815—(a) Paragraph (a) in the final rule has been revised to apply only to tank vessels, to expressly include a vessel at anchor, and to change "secured" to "closed" to clarify that the listed openings must be tightly shut to prevent the entry of water or loss of oil, except as allowed by paragraph (b).

(b) Paragraph (b) has been added in the final rule in response to six comments that the rule would prevent supervised tank cleaning, repairs, testing or purging while underway. As revised, any closure mechanism may only be opened underway after express authorization from a licensed officer or a tankerman required by 46 CFR 31.15–5(a). The actual cleaning, repair or other operation must also be supervised by a licensed officer or a tankerman required by 46 CFR 31.15–5(a) to ensure that the closure mechanism is properly opened and closed.

(c) One comment suggested that a paragraph be added to require the tankerman in charge to ensure that all openings on unmanned barges are closed prior to getting underway. The person in charge of transferring oil to or from a barge may be from the towing vessel or from a facility. The vessel operator must be responsible for the vessel's safety and for preventing the loss of oil into the water. Good seamanship requires that a towing vessel operator ensure the seaworthiness of any towed barge, rather than rely on some facility person in charge of oil transfer.

(d) Four comments suggested that this section apply only to loaded vessels. The final rule has been changed to apply only to tank vessels, which includes tank barges. "Tank vessel" is defined in this final rule as a vessel that carries oil in bulk as cargo or in residue. Thus, when tank vessels have oil cargo or oil residue onboard while in U.S. navigable waters or the contiguous zone they must comply with this section. Tank vessels that are gas free are clearly not covered by this section.

21. § 155.820—(a) Eight comments suggested that the Declaration of Inspection (DOI) be kept ashore in the case of barges. Barges have tubes or "mailboxes" for holding the Certificate of inspection, which may also be used for the DOI. The vessel records should be readily available to Coast Guard personnel who board the vessel.

(b) The requirement to keep records on valve inspection has been deleted, since 46 CFR 61 adequately regulates valve inspection.

Specific Comments: Part 156

1. § 156.100—(a) Three comments suggested correcting "156.170" to read "156.100" and this clerical error has been corrected.

(b) Three comments suggested that facility operations covered under this regulation be exempt from all portions of 33 CFR 126 not specifically cited. This has not been done in the final rule because Part 126 is currently being corrected to eliminate any duplication with 33 CFR 154 and 156, as well as other facility regulations.

(c) The wording has been changed slightly to clarify that oil transfers within a public vessel and the oil transfer operations on a public vessel are not covered by these regulations. However, public vessels are usually required by internal guidelines to meet or exceed FWPCA standards. All other vessels with a capacity of 250 or more barrels of oil are regulated for transfers to, from or within them, including fuel and lube oil internal transfers, which have been the source of numerous spills in the past.

2. § 156.105—(a) The definitions for this part are listed in Part 154 and are cross-referenced to avoid repetition.

3. § 156.107—(a) The comments for § 154.107 are also applicable to this section.

(b) Two comments suggested that alternatives, once granted, should be permanent, barring any future amendments to the statute or regulations. This is not feasible since local circumstances change and vessels transit more than one COTP zone. COTPs will normally honor alternatives granted by other COTPs or OCMIs, but a COTP may rescind an alternative that another COTP previously allowed based on actual operations on the facility or vessel, or due to some change in circumstances that makes the alternative unsafe or creates an unreasonable threat of pollution.

(c) Safety has been added to paragraph (a)(3) to ensure that an alternative is as safe as the regulatory requirement.

4. § 156.110—One comment suggested adding to (a)(2)(i) "or creates a safety hazard". The regulations should not create a safety hazard. If a safety hazard is created, it would be treated as making compliance "physically impractical", and the regulation would be amended to remove the hazard. Safety has been added to paragraph (a)(2)(ii), however, to ensure that the alternatives considered provide equivalent safety and environmental protection. See also paragraph 4(d) of the Part 154 preamble comments.

5. § 156.112—(a) One comment stated that this section (and § 156.113) is dictatorial and does not allow sufficient time for rebuttal by an operator. The intent of the regulation is to allow rapid suspension orders for serious conditions which threaten an imminent discharge of oil. A sentence was expanded to also allow suspension if the COTP or OCMI is not permitted to inspect the operation to ensure compliance with the regulations.

(b) Another comment objected to inexperienced personnel making the costly decision to stop oil transfers. Each COTP or OCMI has either delegated this authority to trained personnel or requires COTP or OCMI express approval prior to suspending operations. The COTP or OCMI should immediately be advised of any action

suspending an oil transfer operation, and in most cases is consulted by his or her representative prior to any suspension order. In any event, the operator is free to immediately contact the COTP or OCMI to question the suspension order or to advise of corrective action taken or planned to have the order lifted.

6. § 156.113—This section was changed to permit the applicable OCMI or District Commander as well as the COTP to withdraw a suspension order. The final rule has also been substantially changed to ensure a rapid and fair appeal process for suspension orders. The intent is to have the same Coast Guard official who issued the suspension order or the District Commander withdraw it.

7. § 156.115—(a) Seventeen comments suggested that the existing rule be retained due to a fear of the COTP being too conservative in allowing one person to supervise more than one transfer at a time. The general rule should be that the facility and each vessel have a person in charge of an oil transfer, unless the COTP determines there is no increased risk of pollution from supervising more than one vessel. There are too many variables to list all of them in the regulation. In some cases, the conditions imposed in old section 156.110 were too restrictive and in others too loose to ensure proper supervision.

(b) One comment suggested deleting the requirement in paragraph (b) that the vessel and facility operators must agree before one person can act as person in charge of the oil transfer operation on both a vessel and a facility at the same time. This requirement has been deleted as not appropriate. However, the intent remains that the COTP should not approve of such a procedure if either the vessel or facility objects to it. Both persons in charge are required by section 156.120 of this chapter to agree on the procedures during transfer before the operation starts.

(c) One comment requested to know the intent behind the revised section. The intent is to remove specific conditions for serving as the person in charge for more than one vessel at a time. The decision is to be made by the COTP concerned, bearing in mind the general rule that normally each transfer operation should have its own person in charge.

(d) The Seafarers International Union suggested that a certified tankerman be required as a facility person in charge. The Coast Guard does not have the same certification authority for dock workers that it has long had for vessel personnel. Also, the facility personnel do not need all of the training required for a vessel tankerman. The facility person in charge criteria in section 154.710 are sufficient.

8. § 156.118—New section 156.118 has been added to the final rule in response to thirty-three comments that the 4 hours advance notice required for all transfers by subsection 156.120(a) is unnecessary and often impossible to meet. As changed, the 4 hours advance notice is discretionary with the COTP. It may only be required for oil transfer operations at facilities which meet the criteria in paragraph (a)(1)–(4), or for any vessel to vessel transfers.

9. § 156.120—(a) Proposed paragraph (a) of this section has been revised and moved to new section 156.118. Also, paragraph (m) has been added to ensure that whenever pretransfer booms are required they are in place before the transfer starts. The remaining paragraphs in this section have been relettered accordingly.

(b) One comment stated that this entire section is too detailed and the average tankerman lacks the education or desire to comply. The obligation for compliance falls on vessel or facility owners or operators as well as the personnel performing the transfer operations. Vessel and facility owners and operators are responsible for the actions or inactions of their employees, and have the responsibility to train personnel and demand compliance with safety and environmental standards. Because personnel error is the predominant cause of oil pollution, training and personnel compliance are essential to any pollution prevention program.

(c) One comment suggesting limiting this section to oil transfers of more than 250 barrels. The threat of pollution is best gauged by the capacity of the vessel transferring oil, and not the actual amount to be transferred. Section 156.120 specifies that oil transfers to or from a vessel with a capacity for 250 or more barrels of oil are regulated.

(d) One comment requested more specific criteria in proposed paragraph (b) (paragraph (a) in the final rule) for mooring. The intent of this requirement is to ensure that mooring lines are regularly checked throughout the transfer operation to prevent parting or strain on hoses that could well lead to an oil spill.

(e) One comment suggested that proposed paragraph (d) (paragraph (c) in the final rule) should include that "hose supports must be non-damaging to the cover or inner hose components." This suggestion was accepted by adding that hose should be supported to prevent "other damage" to it.

(f) One comment noted that proposed paragraphs (f) and (h) (paragraphs (e) and (g) in the final rule) conflict with the fixed piping requirements of 46 CFR 35.35–20. This comment exceeds the scope of the present regulations, since it deals with requiring fixed piping for substances other than oil. There are no conflicts with any section in 46 CFR 35.

(g)(1) Seven comments suggested that proposed paragraph (g) (paragraph (f) in the final rule) be revised to require blanking of hose except when disconnected at both ends. This has not been done since totally disconnected hose can have oil residue. However, sections 154.520 and 155.805 exempt new and unused hose from the blanking requirement.

(g)(2) One comment suggested that proposed paragraph (g) (paragraph (f) in the final rule) be clarified that closure devices are not part of the hose. This has not been done in the final rule, since the reference to sections 154.520 and 155.805 clearly indicates the nature of the closure devices.

(h) One comment objected to the "deep tank" exemption in proposed paragraph (h) (paragraph (g) in the final rule) due to safety considerations. NAVIC 9–73 stated that the existing rule in paragraph 156.120(f), which requires fixed piping with no "deep tank" exemption, superseded 46 CFR 35.35–20(d), which allowed loose hose transfers over the top for Grade D and E cargoes. 46 CFR 35.35–20(d) was to be amended accordingly, but never has been. Due to the fire hazard (static electricity combustion) produced from free falling Grade D and E cargoes, and the health hazard posed to personnel in the cargo hold above the "deep tank" from fumes, the proposed exemption has been deleted from paragraph (g) in the final rule. The existing rule does not allow the exemption, so there is no retro-fitting problem posed by deleting the exemption. Although there would be no direct pollution risk from the exemption, the fire and asphyxiation hazards preclude the exemption.

(i)(1) Five comments stated that proposed paragraph (i) (paragraph (h) in the final rule) is unreasonable and could cause spills if the ballast system is secured during transfer. They stressed that on a VLCC the draft and windage areas are controlled by ballast to ease the strain on mooring lines, and that time will be lost if ballasting and oil transfer are not done at the same time. The requirement has been modified slightly in the final rule to allow the ballasting and deballasting of segregated ballast tanks (SBT) and dedicated clean ballast tanks (CBT) in compliance with 33 CFR Part 157. In

addition, the requirement allows the simultaneous ballasting and discharge of cargo tanks on a tank vessel with a crude oil washing (COW) system to prevent hydrocarbon vapor omissions in U.S. ports, provided the operation is conducted in compliance with 33 CFR 157. This modification prohibits simultaneous cargo transfer and ballasting or deballasting of cargo tanks except for specific circumstances which have been internationally accepted by the 1978 Protocol to the 1973 Marine Pollution Convention. These circumstances which allow simultaneous ballasting and cargo transfer are:

a. ballasting or deballasting SBT because the pump and piping system are separate from the cargo system;

b. ballasting or deballasting CBT in accordance with 33 CFR 157, which requires a double valve separation between CBT and cargo tanks that must be closed when loading cargo tanks; and

c. simultaneous ballasting and cargo discharge in accordance with 33 CFR 157 to prevent hydrocarbon vapor emissions on a tank vessel with a crude oil washing system.

The intent is to prevent accidental mixing of ballast water and cargo oil or loss of oily mixtures to the water.

(i)(2) Two comments stated that proposed paragraph (i) (paragraph (h) in the final rule) failed to delete the prior requirement to lock valves and also failed to prohibit simultaneous oil transfer and ballasting. As noted in paragraph 9(i)(1) above, segregated ballast tanks (SBT) or clean ballast tanks (CBT) may be ballasted or deballasted safely during an oil transfer. Valves should be sealed to warn against opening, but not locked, because locking valves prevents their use in an emergency, is an unsafe practice, and is prohibited by 46 CFR 35.35–10.

(i)(3) One comment suggested changing the wording in proposed paragraph (i) (paragraph (h) in the final rule) to read "each overboard discharge or sea suction valve that is connected to the vessel's oil transfer or cargo tank system not independent from tanks carrying cargo or transfer systems involved in cargo operations is to be sealed and lashed in the closed position." This wording is too confusing. The final rule has been changed, as noted in paragraph 9(i)(1) above, to allow SBT, CBT and crude oil washing (COW) procedures in compliance with 33 CFR 157.

(j) Six comments suggested defining "loose covers" in proposed paragraph (j) (paragraph (i) in the final rule) and allowing repair of gouges, cuts and scratches. The paragraph has been changed to prohibit any unrepaired defect or any defect which allows oil to leak through the hose material. "Reinforcement" is defined in the regulation. However, if the first fabric layer (or "breaker" layer) is loosely woven and primarily intended to aid in bonding the cover to the rest of the hose, it is not considered a reinforcement layer. Hose repairs are allowed, provided the reinforcement is not penetrated, there are no leaks, and the hose, as repaired, meets the testing requirements in section 156.170.

(k) Three comments suggested deleting proposed paragraph (m) (paragraph (l) in the final rule). This has not been done, because, in the few cases where the COTP requires them, monitoring devices should be in use to warn of oil spills.

(l) Three comments suggested deleting the requirement in proposed paragraph (n) (paragraph (n) in the final rule) to have containment drained provided automatic level control equipment is in place. The paragraph has been changed to require periodic draining to maintain the specified capacity. Automatic level control equipment, if operating properly, could provide the periodic draining required by the rule. The equipment would have to be adjusted to ensure that the required capacity is available at all times.

(m) Eight comments suggested that some small leakage from connections should be allowed by proposed paragraph (p) (paragraph (p) in the final rule). The requirement is necessary since leaking is a sign of weakness in a connection and can easily lead to a rupture or larger leak. Paragraph (p) has been changed to specify that leaks not exceed the required containment during the transfer operation.

(n)(1) Seventeen comments suggested rewording proposed paragraph (t)(2) (paragraph (t)(2) in the final rule) to "readily available" rather than "in his possession." This requirement remains in the final rule. It is not necessary for the person to carry the guide. It is necessary that the person in charge have the appropriate transfer guide in his or her immediate area so that it may be consulted throughout the transfer operation without leaving the area. Since the person in charge is required to be at the site of the oil transfer operation, the guide must be there also to be effective and used. "Readily available" cannot be used because it could be interpreted as allowing the guide to be kept in an office or other location accessible to the person in charge.

(n)(2) Two comments suggested clarifying being "at the site of the oil transfer" in proposed paragraph (t)(1) (paragraph (t)(1) in the final rule). The paragraph has been modified to make it clear that the person in charge must be available to supervise all oil transfer personnel during the transfer. "At the site" means the transfer point is in sight, and that the person in charge is in a position to supervise the overall transfer operation and respond to emergencies immediately.

(n)(3) One comment stated that proposed paragraphs (t) and (u) (paragraphs (t) and (u) in the final rule) are redundant. The requirements are not redundant. Paragraph (t) applies to the person in charge and (u) requires all personnel to be on duty and comply with transfer guides. If the person in charge is the only person involved then he or she must comply with both (t) and (u).

(o) Two comments concerned the requirements for an interpreter to comply with proposed paragraph (v) (paragraph (v) in the final rule). The requirement remains the same. Clear communications between persons in charge are absolutely essential. The means to ensure this are left to the vessel and facility owners and operators, but no requirements are given for either to provide an interpreter.

10. § 156.125—(a) Six comments suggested revising paragraph (a) to require stopping only the transfer that caused a spill. This is too restrictive, since an oil spill at the transfer site will affect operations and spread if not rapidly contained and removed. Only rarely will an oil spill near an oil transfer operation be unrelated to the facility or vessel involved in the transfer.

(b) Five comments concerned the criteria for resuming transfer. The intent is to control the spread of oil as well as stop the source before resuming the transfer. COTP authorization is required for normal transfer resumption, not the removal of discharged oil from the water and return to proper storage. As long as removal by the spiller is proper, the COTP (on-scene-coordinator for response activities) will not interfere in the spiller's cleanup operation. Cleanup should start immediately upon discovery and reporting of the discharge to federal and state authorities.

(c) Ten comments stated that the tankerman should be allowed to keep pumping or resume pumping without COTP approval if it prevents a larger spill. It will rarely help prevent a larger spill to continue transfer. In any event, subsection 311(b)(5), FWPCA requires immediate notification of a spill, and COTP approval to continue pumping can

be requested upon notification of the discharge.

(d) One comment suggested that spills into containment devices which do not exceed the required capacity should not require shutdown of the transfer. There should be no spills or leaks during transfer in the operations work area. Of course, a leak into containment devices is not treated as a discharge into the water, and if the leak can be stopped without stopping the transfer that is sufficient. However, the containment capacity must be available throughout the transfer. The intent is not to require the transfer to be stopped for periodic small leaks into the fixed small discharge containment.

(e) One comment stated that this section is unnecessary in view of the added spill containment. The spill containment size requirement of the existing rule has been decreased in the final rule, not increased. This section is necessary to insure that spills are contained and properly removed immediately and not after the transfer is completed.

11. § 156.130—(a) One comment suggested substituting "tight" for "leak-free" seal. This is not sufficient; no proper transfer operation should allow leaks at connections.

(b) Two Coast Guard units stated that (a)(2) conflicts with 33 CFR 126.15(o)(2)(v) and 46 CFR 35.35–15(a) on the number of bolts required for flanges. There is no conflict. 33 CFR 126.15(o)(2)(v) requires "sufficient bolts" and 46 CFR 35.35–15(a) requires no less than 3 bolts for cargoes subject to subchapter D. The final rule simply requires at least 4 bolts in the case of flanges used for oil transfer.

(c) One comment suggested that foreign flanges of equivalent standards should be allowed. Paragraph (a)(3) allows the use of non-ANSI standard flanges if a bolt is in every hole. Another comment suggested that there should be a bolt in each hole in temporary connections even if the flange meets ANSI standards. ANSI standard flanges will provide a leak-free seal if at least 4 bolts are used.

12. § 156.150—(a) Nine comments were received which stated that keeping the declaration of inspection (DOI) on board unmanned barges is not practicable. Stowage tubes and other devices are in common use for storage of the Certificate of Inspection (COI) and the Certificate of Financial Responsibility (COFR) on unmanned barges. The DOI can easily be stowed with the COI and COFR on board any barge.

(b) Ten comments concerned the detail and signing of the DOI. Initialling of specific items before signing is the best way to ensure that the proper procedures have been followed in the transfer. An improperly checked DOI is an indication that proper transfer procedures are not being followed. Spill reports have shown that more attention to the details on the DOI would have prevented a substantial number of spills. A sample DOI has not been provided because of the number of possible variations which still meet the requirements.

(c) One Coast Guard unit commented that the DOI should define what the requirements are, not just list regulation references. Paragraph (c)(4) states that the DOI must contain a list of "the requirements" in § 156.120. It is not sufficient to simply refer to the paragraph of § 156.120. For example, the DOI should state "Vessel moorings are strong enough to hold during all expected conditions during the transfer operation". A reference to § 156.120(b) may be added but not substituted for the actual requirement.

(d) A towing company commented that the regulation should require facilities to provide blank copies of the DOI to vessels, especially for unmanned barges. Facilities may provide this service, but it is improper to require it by regulations.

(e) Two comments requested that the existing DOI forms should be acceptable. Existing DOI forms, modified to add the new requirements in § 156.120 are permissible.

(f) One comment suggested 2 separate DOIs signed by the opposite party before transfer. One DOI is required with each person in charge keeping a copy. This documents that both the receiving and transferring party have followed all of the requirements, and ensures a pretransfer conference, since both persons in charge must use the same DOI before transfer.

13. § 156.160—(a) One comment stated that this section is redundant and should be deleted. This section is in the existing rule and has been retained in the final rule. It is important, because it clearly requires the person in charge to authorize oil transfers before they begin, and prohibits any oil transfer actions unless supervised by the person in charge.

(b) One comment stated that any licensed deck officer is competent to supervise the connecting of cargo hose. This is permissible, but the person in charge must approve of this indirect supervision. The person in charge is in overall control of the oil transfer operation.

(c) Two comments suggested that "immediate vicinity" should be interpreted to allow the person in charge to use a shelter off the vessel in bad weather. The person in charge may use a shelter during an oil transfer if that person is in a position to observe and properly supervise the transfer operation.

(d) One comment suggested that paragraph (b) should be revised to allow only the "appropriate person in charge" to start the transfer rather than have two persons in charge. Both persons in charge (on the transferring and receiving side of the operation) must have a pretransfer conference and sign the DOI before the transfer starts. However, either one may actually instruct personnel to physically start the transfer. This should be determined during the pretransfer conference.

14. § 156.170—(a) Four comments concerning paragraph (e), recommended that specified test fluids be compatible with the hose materials. Paragraph (e) has been revised in the final rule to specify the use of test fluids that are compatible with the hose tube according to the hose manufacturer. Although using compatible oils as test fluids could pose a risk of pollution, under proper test conditions any leaks should be readily detected and corrected without a discharge into the water, especially with required containment devices in place. The threat of deterioration by using high aromatic content test liquids is sufficient reason to modify the regulation.

(b) One comment suggested that paragraph (c)(1)(iii) should read "facility working pressure". This has not been done in the final rule, because it is not reasonable to rely on a facility to use a reduced working pressure. A procedure should not compensate for an acceptable equipment standard. Testing at 1½ times a lower pressure routinely used by a facility will not expose weaknesses if the facility decides later to increase the routine transfer pressure to the design maximum allowable working pressure.

(c) Four comments objected to a higher test pressure, and said it will not prevent failure shortly after testing. Another suggested that testing to the relief valve pressure is sufficient. The higher test pressure is highly likely to expose a weakness or leak under controlled conditions, where corrective action can take place before a spill. If only the MAWP is used for the test, there is only a random chance that any leak will be discovered and corrected then rather than during routine transfers, which may not be as well supervised as the tests.

(d) Paragraph (c)(1)(iv) is added to the final rule to give the COTP a means to

determine how much damage to the hose can be permitted.

(e) The language in paragraph (a) concerning the frequency of testing has been modified and placed in a new paragraph (f). As revised, facilities must be inspected each year, while vessels must either be inspected annually or as part of both the biennial and mid-period inspections (which is essentially once a year).

(f) One comment suggested exempting submarine pipelines from paragraph (c)(4) and relying instead on visual inspections during normal operations. This has not been done in the final rule. Visual inspection of submerged pipelines is not adequate or practical in many cases. A fluid other than oil may be used if the integrity of the pipeline is really doubtful.

(g) A Coast Guard district suggested clarifying this section to cover transfers from, to or within a vessel. The new definition of "transfer" in § 154.105, which applies to Parts 154, 155, and 156 clarifies that the regulations cover internal vessel transfers as well as those to or from a vessel.

(h) A hose manufacturer suggested amending paragraph (c)(2) to indicate that relief valves are not part of the hose; should never be set higher than 1½ times the MAWP; and should normally not be set above the MAWP. This has not been done in the final rule. There is no indication that relief valves are a part of oil hose. The setting or relief valves varies and is a function of facility construction and transfer procedure.

(i) One comment questioned how hose can have no "external deterioration" and still be allowed to have cuts, gouges, and abrasions that do not penetrate the first layer of reinforcement. The regulation is intended to prohibit hose that is likely to leak. Deterioration is an indication of a serious defect or breakdown in the material of a hose, while minor surface cuts and abrasions are not as serious, and without penetration of the reinforcement are not likely to allow oil to leak through the hose.

(j) One comment requested a definition of "reinforcement", and stated that there is no reason to prohibit loose covers if the outer ply can be cut under the regulation. Paragraph 9(j) under Part 156 comments of this preamble addresses the question reinforcement and loose covers.

(k) Two hose manufacturers suggested that oil hose be tested only in a horizontal position. This has not been added in the final rule because a realistic test is required to detect leaks before they become oil spills. The normal transfer position of the hose is the most realistic test position.

Final Evaluation

1. These regulations are considered to be "nonsignificant" and accordingly, a final evaluation has been prepared and placed in the public docket as required by the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11040–11045). The DOT Order requires that each evaluation include an economic analysis which quantifies, to the extent practicable, the estimated cost of the regulations to the private sector, consumers, and Federal, State and local governments, as well as the anticipated benefits and impact of the regulations.

2. As explained more fully in the Final Evaluation filed in this docket, the estimated total cost to comply with the amendments to 33 CFR 154, 155, and 156 is less than $3.5 million a year. The estimated total cost of $232 million to the U.S. consumer over a 10 year period ($23.2 million a year) and the $65 million cost estimate over a 2 year period for the towing industry, which were discussed in the preamble to the proposed rule (42 FR 32673) have been greatly revised downward. This is because the proposal for oil water separators, monitors and alarms has been totally deleted from this final rule. A supplemental notice of proposed rulemaking will be published later under CGD 75–124a. That supplemental proposal will contain a new environmental and economic evaluation, and will take into account the numerous comments received on CGD 75–124, which opposed oil water separators, monitors and alarms, especially for vessels under 400 gross tons. It also will take into account the 1978 protocol which amended the International Convention for the Prevention of Pollution from Ships, 1973. The $3.5 million estimate will cover the administrative costs of amending facility operations manuals, vessel oil transfer procedures, and Declarations of Inspection, plus the cost of facility monitors to detect oil spills and deployment of oil containment material (booms, etc.) before transfer in the limited cases where COTPs feel such added precautions are necessary for proper oil transfer operations.

3. The ultimate benefits of these amendments will be to ensure environmentally safe oil transfer operations in a realistic and cost effective manner. A very real added benefit to industry will be more conservation of precious oil resources, which will be transported more carefully where these regulations are followed, and resultant savings from avoided penalties for oil discharges under 33 U.S.C. 1321(b)(3) and cleanup costs under 33 U.S.C. 1321(f). The benefit to the general public will be more healthful waters and better protected shorelines, plants and wildlife. The savings to federal, state and local government will be in avoided federal removal costs and costs to restore or protect wildlife and plants from oil damage. Accordingly, in Title 33 of the Code of Federal Regulations, §§ 154.100 through 154.700; §§ 154.740 through 154.780; §§ 155.100 through 155.320; §§ 155.440 through 155.480; §§ 155.720 through 155.820; and Part 156 are revised to read as follows:

PART 154—OIL POLLUTION PREVENTION REGULATIONS FOR MARINE OIL TRANSFER FACILITIES

Subpart A—General

Sec.

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* * * * *
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Authority: 33 U.S.C. 1321(j)(1)(C); E.O. 11735, 3 CFR, 1971–1975 COMP., p. 793; 49 CFR 1.46(m).

Subpart A—General

§ 154.100 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, this part applies to each facility that is capable of transferring oil in bulk to or from any vessel or public vessel with a capacity of 250 or more barrels of that oil.

(b) This part does not apply to a facility in a caretaker status (one that is not operational or not capable of conducting oil transfer operations).

(c) This part does not apply to a marina (a facility that services primarily pleasure craft) unless it engages in the transfer of oil in bulk to or from a vessel or public vessel with a capactiy of 250 or more barrels of that oil.

§ 154.105 Definitions.

As used in this part:

"Captain of the Port" (COTP) means the U. S. Coast Guard officer commanding a Captain of the Port Zone described in Part 3 of this chapter, or that person's authorized representative.

"Commandant" means the Commandant of the Coast Guard or an authorized representative.

"Contiguous Zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone, but not extending beyond 12 miles from the baseline from which the breadth of the territorial sea is measured.

"District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District, as described in Part 3 of this chapter or an authorized representative.

"Facility" means either an onshore facility or an offshore facility and includes, but is not limited to structures, equipment, and appurtenances thereto, used or capable of being used to transfer oil to or from a vessel or a public vessel. A facility includes federal, state, municipal, and private facilities.

"Facility operator" means the person who owns, operates, or is responsible for the operation of the facility.

"Mobile facility" means any facility that can readily change location, such as a tank truck or tank car, other than a vessel or public vessel.

"Monitoring device" means any fixed or portable sensing device used to monitor for a discharge of oil onto the water, within or around a facility, and designed to notify operating personnel of a discharge of oil.

"Officer in Charge, Marine Inspection" (OCMI) means the U. S. Coast Guard officer commanding a Marine Inspection Zone described in Part 3 of this chapter, or an authorized representative.

"Offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States other than a vessel or a public vessel.

"Person in charge" means an individual designated as a person in charge of oil transfer operations under §§ 154.710 (for facilities) or 155.700 (for vessels) or this chapter.

"Tank barge" means any tank vessel not equipped with a means of self-propulsion.

"Tank vessel" means any vessel that carries oil in bulk as cargo or in residue.

"Transfer" means any movement of oil to, from, or within a vessel by means of pumping, gravitation, or displacement.

"Vessel operator" means a person who owns, operates, or is responsible for the operation of a vessel.

§ 154.106 Incorporation by reference.

(a) The American National Standards Institute (ANSI) standards referred to in this Part are incorporated by reference. The incorporation by reference was approved by the Director of the Federal Register under the provisions of 1 CFR Part 51 on December 20, 1978.

(b) The standards are on file in the Federal Register library, and copies may be obtained from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, NY 10017.

(c) The standards may also be examined at the Merchant Marine Technical Division (G–MMT–2/TP12), Room 1214, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593 ((202) 426–2160).

§ 154.107 Alternatives.

(a) The COTP may consider and approve alternative procedures, methods, or equipment standards to be used by a facility operator in lieu of any requirement in this Part if—

(1) compliance with the requirement is economically or physically impractical;

(2) the alternative provides an equivalent level of safety and protection from pollution by oil, which is documented in the request; and

(3) The facility operator submits a written request for the alternative.

(b) The COTP takes final approval or disapproval action on the request, in writing, within 30 days of receipt of the request.

§ 154.108 Exemptions.

(a) The Chief, Office of Marine Environment and Systems, acting for the Commandant, grants an exemption or partial exemption from compliance with any requirement in this part if—

(1) a facility operator submits an application for the exemption via the COTP; and

(2) it is determined, from the application, that—

(i) compliance with the requirement is economically or physically impractical;

(ii) no alternative procedures, methods, or equipment standards exist that would provide an equivalent level of safety and protection from pollution by oil; and

(iii) the likelihood of oil being discharged is not substantially increased as a result of the exemption.

(b) If requested, the applicant must submit any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption, and proposed procedures, methods or equipment standards.

(c) The exemption may specify the procedures, methods, or equipment standards that will apply.

(d) An exemption is granted or denied in writing. The decision of the Chief, Office of Marine Environment and Systems is a final agency action.

§ 154.110 Letter of intent.

(a) The facility operator of any facility to which this part applies must submit a letter of intent to operate a facility or to conduct mobile facility operations to the COTP not less than 60 days before the intended operations unless a shorter period is allowed by the COTP. Previously submitted letters of intent need not be resubmitted.

(b) The letter of intent required by paragraph (a) of this section may be in any form but must contain—

(1) the name, address, and telephone number of the facility operator;

(2) the name, address, and telephone number of the facility or, in the case of a mobile facility, the dispatching office; and

(3) except for a mobile facility, the geographical location of the facility in relation to the associated body of navigable waters.

(c) The facility operator of any facility for which a letter of intent has been submitted, shall within five (5) days advise the COTP in writing of any changes of information and shall cancel, in writing, the letter for any facility at which oil transfer operations are no longer conducted.

§ 154.120 Facility examinations.

(a) The facility operator shall allow the Coast Guard, at any time, to make any examination and shall perform, upon request, any test to determine compliance with this part and part 156, as applicable. The facility operator shall conduct all required testing of facility equipment in a manner acceptable to the Coast Guard.

(b) The COTP shall provide the facility operator with a written report of the results of the examination for the record required by § 154.740(e) and shall

list the deficiencies in the report when the facility is not in compliance with the requirements in this part and Part 156 of this chapter.

Subpart B—Operations Manual

§ 154.300 Operations manual: general.

(a) The facility operator of each facility to which this part applies shall submit, with the letter of intent, an operations manual that—

(1) describes how the applicant meets the operating rules and equipment requirements prescribed by this part and Part 156 of this chapter;

(2) describes the responsibilities of personnel under this part and Part 156 of this chapter in conducting oil transfer operations; and

(3) includes translations into a language or languages understood by all designated persons in charge of transfer operations employed by the facility.

(b) The facility operator shall maintain the operations manual so that it is—

(1) current; and

(2) readily available for examination by the COTP.

(c) The COTP shall review the operations manual when submitted, after any substantial amendment, and as otherwise required by the COTP.

(d) In determining whether the manual meets the requirements of this part and Part 156 of this chapter the COTP shall consider the size, complexity, and capability of the facility.

(e) If the manual meets the requirements of this part and Part 156 of this chapter, the COTP shall issue a "letter of adequacy" as described in § 154.325.

(f) The facility operator shall ensure that a sufficient number of copies of the operations manual, including a sufficient number of the translations required by paragraph (a)(3) of this section, are readily available for each facility person in charge while conducting an oil transfer operation.

Note.—The facility operator may request that the contents of the operations manual or portions thereof be considered commercial or financial information that is privileged or confidential. Under the Freedom of Information Act, the Coast Guard would withhold any part of the contents of the operations manual from public disclosure upon determining that it is commercial or financial information that is privileged or confidential.

§ 154.310 Operations manual: contents.

(a) Each operations manual required by § 154.300 must contain—

(1) The geographic location of the facility;

(2) A physical description of the facility including a plan of the facility showing mooring areas, transfer locations, control stations, and locations of safety equipment;

(3) The hours of operation of the facility;

(4) The sizes, types, and number of vessels that the facility can transfer oil to or from simultaneously;

(5) For each product transferred at the facility—

(i) Generic or chemical name; and

(ii) The following cargo information:

(A) The name of the cargo, as listed in Table 30.25–1 of 46 CFR;

(B) A description of the appearance of the cargo;

(C) A description of the odor of the cargo;

(D) The hazards involved in handling the cargo;

(E) Instructions for safe handling of the cargo;

(F) The procedures to be followed if the cargo spills or leaks, or if a person is exposed to the cargo; and

(G) A list of fire fighting procedures and extinguishing agents effective with fires involving the cargo.

(6) The minimum number of persons on duty during transfer operations and their duties;

(7) The names and telephone numbers of facility, Coast Guard, and other personnel who may be called by the employees of the facility in an emergency;

(8) The duties of watchmen, required by § 155.810 of this chapter and 46 CFR 35.05–15, for unmanned vessels moored at the facility;

(9) A description of each communication system required by this part;

(10) The location and facilities of each personnel shelter, if any;

(11) A description and instructions for the use of drip and discharge collection and vessel slop reception facilities, if any;

(12) A description and the location of each emergency shutdown system;

(13) Quantity, types, locations, and instructions for use of monitoring devices if required by § 154.525;

(14) Quantity, type, location, instructions for use, and time limits for gaining access to the containment equipment required by § 154.545;

(15) Quantity, type, location, and instructions for use of fire extinguishing equipment required by § 126.15(j) of this chapter;

(16) The maximum relief valve setting (or maximum system pressure when relief valves are not provided) for each oil transfer system;

(17) Procedures for—

(i) Operating each loading arm including the limitations of each loading arm;

(ii) Transferring oil;

(iii) Completion of pumping; and

(iv) Emergencies;

(18) Procedures for reporting and initial containment of oil discharges;

(19) A brief summary of applicable federal, state, and local oil pollution laws and regulations;

(20) Procedures for shielding portable lighting authorized by the COTP under § 154.570(c); and

(21) A description of the training and qualification program for persons in charge.

(b) The facility operator shall incorporate a copy of each amendment to the operations manual under § 154.320 in each copy of the manual with the related existing requirement, or add the amendment at the end of each manual if not related to an existing requirement.

(c) The operations manual must be written in the order specified in paragraph (a) of this section, or contain a cross-referenced index page in that order.

§ 154.320 Operations manual: amendment.

(a) Using the following procedures, the COTP may require the facility operator to amend the operations manual if the COTP finds that the operations manual does not meet the requirements in this part:

(1) The COTP shall notify the facility operator in writing of any inadequacies in the operations manual. The facility operator may submit written information, views, and arguments on and proposals for amending the manual within 14 days from the date of the COTP notice. After considering all relevant material presented, the COTP shall notify the facility operator of any amendment required or adopted, or the COTP shall rescind the notice. The amendment becomes effective 30 days after the facility operator receives the notice, unless the facility operator petitions the Commandant to review the COTP's notice, in which case its effective date is delayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing via the COTP who issued the requirement to amend.

(2) If the COTP finds that there is a condition requiring immediate action to prevent the discharge or risk of discharge of oil that makes the procedure in paragraph (a)(1) of this section impractical or contrary to the public interest, the COTP may issue an amendment effective on the date the facility operator receives notice of it. In

such a case, the COTP shall include a brief statement of the reasons for the findings in the notice. The owner or operator may petition the Commandant to review the amendment, but the petition does not delay the amendment.

(b) The facility operator may propose amendments to the operations manual by—

(1) Submitting any proposed amendment and reasons for the amendment to the COTP not less than 30 days before the requested effective date of the proposed amendment; or

(2) If an immediate amendment is needed, requesting the COTP to approve the amendment immediately.

(c) The COTP shall respond to proposed amendments submitted under paragraph (b) of this section by—

(1) Approving or disapproving the proposed amendments;

(2) Advising the facility operator whether the request is approved, in writing, before the requested date of the amendments;

(3) Including any reasons in the written response if the request is disapproved; and

(4) If the request is made under paragraph (b)(2) of this section immediately approving or rejecting the request.

(d) Amendments to personnel and telephone number lists required by § 154.310(a)(8) do not require prior COTP approval, but the COTP must be advised of such amendments as they occur.

§ 154.325 Operations manual: letter of adequacy.

(a) The letter of adequacy is a letter, from the COTP to the facility operator, certifying that the operations manual meets the requirements of this part.

(b) No person may use an operations manual for oil transfer operations, as required by § 156.120 (t)(2), (t)(3), and (u)(2) of this chapter, unless the facility operator has a valid letter of adequacy for the operations manual.

(c) The requirement in paragraph (b) of this section for a valid letter of adequacy is effective either on (date three years after effective date of the final rule); upon issuance to a facility operator of the first letter of adequacy; or upon any substantial amendment to the operations manual, whichever is earliest.

(d) The letter of adequacy is voided if the facility operator—

(1) amends the operations manual without following the procedures in § 154.320; or

(2) fails to amend the operations manual when required by the COTP.

Subpart C—Equipment Requirements

§ 154.500 Hose assemblies.

Each hose assembly used for transferring oil must meet the following requirements:

(a) The minimum design burst pressure for each hose assembly must be—

(1) At least 600 pounds per square inch; and

(2) At least four times the sum of the pressure of the relief valve setting (or four times the maximum pump pressure when no relief valve is installed) plus the static head pressure of the oil transfer system at the point where the hose is installed.

(b) The maximum allowable working pressure (MAWP) for each hose assembly must be—

(1) At least 150 pounds per square inch; and

(2) More than the sum of the pressure of the relief valve setting (or the maximum pump pressure when no valve is installed) plus the static head pressure of the oil transfer system at the point where the hose is installed.

(c) Each nonmetallic hose must be usable for oil service.

(d) Each hose assembly must either have—

(1) Full threaded connections;

(2) Flanges that meet standard B16.5—1977, *Steel Pipe Flanges and Flang Fittings,* or standard B.16.24—1971, *Brass or Bronze Pipe Flanges,* of the American National Standards Institute (ANSI); or

(3) Quick-connect couplings that are acceptable to the Commandant.

(e) Except as provided in paragraph (f) of this section, each hose must be marked with—

(1) The products for which the hose may be used or the words "oil service";

(2) Maximum allowable working pressure;

(3) Date of manufacture; and

(4) Date of the latest test required by § 156.170 of this chapter.

(f) The information required by paragraph (e)(3)–(4) of this section need not be marked on the hose if it is recorded elsewhere at the facility and the hose is marked to identify it with that information.

(g) The hose burst pressure and the pressure used for the test required by § 156.170 of this chapter must not be marked on the hose and must be recorded elsewhere at the facility as described in paragraph (f) of this section.

(h) Each hose used to transfer oil for fuel to a vessel that has a fill pipe for which containment can not practically be provided must be equipped with an automatic back pressure shutoff nozzle.

§ 154.510 Loading arms.

(a) Each mechanical loading arm used for transferring oil and placed into service after June 30, 1973, must meet the design, fabrication, material, inspection, and testing requirements in ANSI Standard B31.3—1976 with Addenda B31.3a—1978, *Petroleum Refinery Piping.*

(b) The manufacturer's certification that the standard in paragraph (a) of this section has been met must be permanently marked on the loading arm or recorded elsewhere at the facility with the loading arm marked to identify it with that information.

(c) Each mechanical loading arm used for transferring oil must have a means of being drained or closed before being disconnected after transfer of oil.

§ 154.520 Closure devices.

The facility must have enough butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the COTP to blank off the ends of each hose or loading arm that is not connected for the transfer of oil. New, unused hose is exempt from this requirement.

§ 154.525 Monitoring devices.

The COTP may require the facility to install monitoring devices if the installation of monitoring devices at the facility would significantly limit the size of a discharge of oil and either—

(a) The environmental sensitivity of the area requires added protection;

(b) The products transferred at the facility pose a significant threat to the environment; or

(c) The size or complexity of the transfer operation poses a significant potential for a discharge of oil.

§ 154.530 Small discharge containment.

(a) Except as provided in paragraphs (c) and (d) of this section, the facility must have fixed catchments, curbing, or other fixed means to contain oil discharged in at least—

(1) Each hose handling and loading arm area (that area on the facility that is within the area traversed by the free end of the hose or loading arm when moved from its normal stowed or idle position into a position for connection); and

(2) Each hose connection manifold area.

(b) The discharge containment means required by paragraph (a) of this section must have a capacity of at least—

(1) Two barrels if it serves one or more hoses of 6-inch inside diameter or

smaller, or loading arms of 6-inch nominal pipe size diameter or smaller;

(2) Three barrels if it serves one or more hoses with an inside diameter of more than 6-inches, but less than 12 inches, or loading arms with a nominal pipe size diameter of more than 6 inches, but less than 12 inches; or

(3) Four barrels if it serves one or more hoses of 12-inch inside diameter or larger, or loading arms of 12-inch nominal pipe size diameter or larger.

(c) The facility may use portable means of not less than ½ barrel capacity each to meet the requirements of paragraph (a) of this section for part or all of the facility if the COTP finds that fixed means to contain oil discharges are not feasible.

(d) A mobile facility may have portable means of not less than five gallons capacity to meet the requirements of paragraph (a) of this section.

§ 154.540 Discharge removal.

The facility must have a means to safely and quickly remove discharged oil from the containment means required by § 154.530 without discharging the oil into the water.

§ 154.545 Discharge containment equipment.

(a) Each facility must have ready access to enough oil containment material and equipment to contain any oil discharged on the water from operations at that facility.

(b) For the purpose of this section, "access" may be by direct ownership, joint ownership, cooperative venture, or contractual agreement.

(c) Each facility must establish time limits, subject to approval by the COTP, for deployment of the containment material and equipment required by paragraph (a) of this section considering—

(1) Oil handling rates;

(2) Oil capacity susceptible to being spilled;

(3) Frequency of facility operations;

(4) Tidal and current conditions;

(5) Facility age and configuration; and

(6) Past record of discharges.

(d) The COTP may require a facility to surround each vessel conducting an oil transfer operation with oil containment material before commencing an oil transfer operation if—

(1) The environmental sensitivity of the area requires the added protection;

(2) The products transferred at the facility pose a significant threat to the environment;

(3) The past record of discharges at the facility is poor; or

(4) The size or complexity of the transfer operation poses a significant potential for a discharge of oil; and

(5) The use of vessel containment provides the only practical means to reduce the extent of environmental damage.

§ 154.550 Emergency shutdown.

(a) The facility must have an emergency means to enable the person-in-charge of the transfer of oil on board the vessel, at his or her usual operating station, to stop the flow of oil from the facility to the vessel. This means must be—

(1) An electrical, pneumatic, or mechanical linkage to the facility; or

(2) An electronic voice communications system continuously operated by a person on the facility who can stop the flow of oil immediately.

(b) The point in the oil transfer system at which the emergency means stops the flow of oil on the facility must be located near the dock manifold connection to minimize the loss of oil in the event of the rupture or failure of the—

(1) Hose;

(2) Loading arm; or

(3) Manifold valve.

(c) Not later than November 1, 1980, the means required by paragraph (a) of this section must be able to stop the flow of oil in—

(1) 60 seconds on any facility or portion of a facility which starts operations on or before November 1, 1980; and

(2) 30 seconds on any facility which starts operations after November 1, 1980.

§ 154.560 Communications.

(a) Each facility must have a means that enables continuous two-way voice communication between the person in charge of the vessel transfer operation and the person in charge of the facility transfer operation.

(b) Each facility must have a means, which may be the communications system itself, that enables a person on board a vessel or on the facility to effectively indicate the desire to use the means of communication required by paragraph (a) of this section.

(c) The means required by paragraph (a) of this section must be usable and effective in all phases of the transfer operation and all conditions of weather at the facility.

(d) A facility may use the system in § 154.550(a)(2) to meet the requirement of paragraph (a) of this section.

(e) Portable radio devices used to comply with paragraph (a) of this section during the transfer of flammable or combustible liquids must be intrinsically safe, as defined in 46 CFR 110.15–100(i), and meet Class I, Division I, Group D requirements as defined in 46 CFR 110.80.

§ 154.570 Lighting.

(a) Except as provided in paragraph (c) of this section, for operations between sunset and sunrise, a facility must have fixed lighting that adequately illuminates—

(1) Each transfer connection point on the facility;

(2) Each transfer connection point in use on any barge moored at the facility to or from which oil is being transferred;

(3) Each oil transfer operations work area on the facility; and

(4) Each oil transfer operations work area on any barge moored at the facility to or from which oil is being transferred.

(b) Where the illumination is apparently inadequate, the COTP may require verification by instrument of the levels of illumination. On a horizontal plane 3 feet above the barge deck or walking surface, illumination must measure at least—

(1) 5.0 foot candles at transfer connection points; and

(2) 1.0 foot candle in oil transfer operations work areas.

(c) For small or remote facilities, the COTP may authorize operations with an adequate level of illumination provided by the vessel or by portable means.

(d) Lighting must be located or shielded so as not to mislead or otherwise interfere with navigation on the adjacent waterways.

Subpart D—Facility Operations

§ 154.700 General.

No person may operate a facility unless the equipment, personnel, and operating procedures of that facility meet the requirements of this part.

* * * * *

§ 154.740 Records.

Each facility operator shall keep at the facility and make available for examination by the COTP—

(a) A copy of the letter of intent for the facility;

(b) The name of each person currently designated as a person in charge of oil transfer operations at the facility;

(c) The date and result of the most recent test or examination of each item tested or examined under § 156.170 of this chapter;

(d) The hose information required by § 154.500 (e) and (g) except that marked on the hose;

(e) The record of all examinations of the facility by the COTP within the last 3 years; and

(f) The Declaration of Inspection required by § 156.150(f) of this chapter.

§ 154.750 Compliance with operations manual.

The facility operator shall require facility personnel to use the procedures in the operations manual prescribed by § 154.300 for operations under this part.

§ 154.760 [Reserved]

§ 154.770 [Reserved]

§ 154.780 [Reserved]

PART 155—OIL POLLUTION PREVENTION REGULATIONS FOR VESSELS

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155.815 Tank vessel integrity.
155.820 Records.
Appendix A—Specifications for shore connection.

Authority: 33 U.S.C. 1321(j)(1) (C) and (D); E.O. 11735, 3 CFR, 1971–1975 COMP., p. 793; 49 CFR 1.46(m).

Subpart A—General

§ 155.100 Applicability.

This part prescribes procedures, methods, equipment and other requirements for equipment to prevent and contain oil discharges from vessels on the navigable waters and contiguous zone of the U.S.

§ 155.105 Definitions.

The definitions in Part 154 of this chapter apply to this part.

§ 155.107 Alternatives.

(a) The COTP or OCMI may consider and approve alternative procedures, methods, or equipment standards to be used by a vessel operator in lieu of any requirements in this part if—

(1) Compliance with the requirement is economically or physically impractical;

(2) The vessel operator submits a written request for the alternative at least 30 days before operations under the alternative are proposed; and

(3) The alternative provides an equivalent level of safety and protection from pollution by oil, which is documented in the request.

(b) The COTP or OCMI takes final approval or disapproval action on any alternative requested, in writing, within 30 days of receipt of the request.

§ 155.110 Exemptions.

(a) The Chief, Office of Marine Environment and Systems, acting for the Commandant, grants an exemption or partial exemption from compliance with any requirement in this part if—

(1) a vessel operator submits an application for exemption via the COTP or OCMI 30 days before operations under the exemption are proposed unless the COTP or OCMI authorizes a shorter time; and

(2) it is determined, from the application, that—

(i) compliance with a specific requirement is economically or physically impractical;

(ii) no alternative procedures, methods, or equipment standards exist that would provide an equivalent level of safety and protection from pollution by oil; and

(iii) the likelihood of oil being discharged as a result of the exemption is minimal.

(b) If requested, the applicant must submit any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption and proposed procedures, methods or equipment standards.

(c) The exemption may specify the procedures, methods, or equipment standards that will apply.

(d) An exemption is granted or denied in writing. The decision of the Chief, Office of Marine Environment and Systems is a final agency action.

Subpart B—Vessel Equipment

§ 155.310 Cargo oil discharge containment.

(a) A tank vessel with a capacity of 250 or more barrels that is carrying oil cargo must have—

(1) under or around each oil loading manifold and each oil transfer connection point, a fixed container or enclosed deck area that, in all conditions of vessel list or trim encountered during the loading operation, has a capacity of at least—

(i) one half barrel if it serves one or more hoses with an inside diameter of 2 inches or less, or one or more loading arms with a nominal pipe size diameter of 2 inches or less;

(ii) one barrel if it serves one or more hoses with an inside diameter of more than 2 inches but less than 4 inches, or one or more loading arms with a nominal pipe size diameter of more than 2 inches but less than 4 inches;

(iii) two barrels if it serves one or more hoses with an inside diameter of 4 inches or more, but less than 6 inches, or one or more loading arms with a nominal pipe size diameter of 4 inches or more, but less than 6 inches;

(iv) three barrels if it serves one or more hoses with an inside diameter of 6 inches or more, but less than 12 inches, or one or more loading arms with a nominal pipe size diameter of 6 inches or more, but less than 12 inches; or

(v) four barrels if it serves one or more hoses with an inside diameter of 12 inches or more, or one or more loading arms with a nominal pipe size diameter of 12 inches or more;

(2) means of draining or removing discharged oil from each container or enclosed deck area without discharging the oil into the water; and

(3) a mechanical means of closing each drain and scupper in the container or enclosed deck area required by this section.

(b) A tank barge with a capacity of 250 or more barrels that is carrying oil cargo must meet paragraph (a) of this section or be equipped with—

(1) a coaming, at least 4 inches high but not more than 8 inches high, enclosing the immediate area of the cargo hatches, oil loading manifolds, and transfer connections, that has a capacity, in all conditions of vessel list and trim to be encountered during the loading operation, of at least one-half barrel per hatch, manifold, and connection within the enclosed area;

(2) a fixed or portable container, under each oil loading manifold and each oil transfer connection within the coaming, that holds at least one-half barrel:

(3) a mechanical means of closing each drain and scupper within the coaming; and

(4) a means of draining or removing discharged oil from the fixed or portable container and from within the coamings without discharging the oil into the water.

§ 155.320 Fuel oil and bulk lubricating oil discharge containment.

(a) A vessel of 300 gross tons or more constructed after June 30, 1974 must have a fixed container or enclosed deck area under or around each fuel oil or bulk lubricating oil tank vent, overflow, and fill pipe, which—

(1) for a vessel of 300 or more but less than 1600 gross tons has a capacity of at least one-half barrel; and

(2) for a vessel of 1600 or more gross tons has a capacity of one barrel.

(b) A vessel of 100 gross tons or more constructed before July 1, 1974, and a vessel of 100 or more but less than 300 gross tons constructed after June 30, 1974 must—

(1) meet paragraph (a)(1) of this section;

(2) equip each fuel oil or bulk lubricating oil tank vent, overflow, and fill pipe during oil transfer operations with a portable container of at least a 5 U.S. gallon capacity; or

(3) if the vessel has a fill fitting for which containment is impractical, use an automatic back pressure shut-off nozzle.

* * * * *

§ 155.440 Placard.

(a) A vessel, except a vessel of less than 26 feet in length, must have a placard of at least 5 by 8 inches, made of durable material, fixed in a conspicuous place in each machinery space, or at the bilge and ballast pump control station, stating the following:

Discharge of Oil Prohibited

The Federal Water Pollution Control Act prohibits the discharge of oil or oily waste into or upon the navigable waters of the United States or the waters of the contiguous zone if such discharge causes a film or sheen upon or discoloration of the surface of the water or causes a sludge or emulsion beneath the surface of the water. Violators are subject to a penalty of $5,000.

(b) Existing stocks of placards may be used for the life of the placard.

(c) The placard required by paragraph (a) or (b) of this section must be printed in a language or languages understood by the crew.

§ 155.470 Prohibited oil spaces.

A self-propelled vessel of 300 or more gross tons must not carry bulk oil or oily waste in any space forward of a collision bulkhead except—

(a) for vessels constructed after June 30, 1974, fuel oil for use on the vessel may be carried in tanks forward of a collision bulkhead, if such tanks are at least 24 inches inboard of the hull structure; or

(b) for vessels constructed before July 1, 1974, fuel oil for use on the vessel may be carried in tanks forward of a collision bulkhead, if such tanks were designated, installed, or constructed for fuel oil carriage before July 1, 1974.

§ 155.480 [Reserved]

Subpart C—Oil Transfer Personnel Procedures Equipment, and Records

* * * * *

§ 155.720 Oil transfer procedures.

The operator of a vessel that has a capacity for 250 or more barrels of oil must provide oil transfer procedures that meet the requirements of this part and Part 156 for—

(a) transfers of oil to or from the vessel; and

(b) transfers of oil from tank to tank within the vessel.

§ 155.730 Compliance with oil transfer procedures.

The vessel operator of each vessel required by § 155.720 to have oil transfer procedures shall maintain them current and shall require vessel personnel to use the oil transfer procedures for each oil transfer operation.

§ 155.740 Availability of oil transfer procedures.

The oil transfer procedures required by § 155.720 must be—

(a) available for inspection by the COTP or OCMI whenever the vessel is in operation;

(b) legibly printed in a language or languages understood by personnel engaged in oil transfer operations; and

(c) permanently posted or available at a place where the procedures can be easily seen and used by members of the crew when engaged in oil transfer operations.

§ 155.750 Contents of oil transfer procedures.

(a) The oil transfer procedures required by § 155.720 must contain, either in the order listed or by use of a cross-reference index page—

(1) a list of each product transferred to or from the vessel, including the following information:

(i) generic or chemical name;

(ii) cargo information as described in § 154.310(a)(5)(ii) of this chapter; and

(iii) applicability of oil transfer procedures;

(2) a description of each oil transfer system on the vessel including—

(i) a line diagram of the vessel's oil transfer piping, including the location of each valve, pump, control device, vent, and overflow;

(ii) the location of the shutoff valve or other isolation device that separates any bilge or ballast system from the oil transfer system; and

(iii) a description of and procedures for emptying the discharge containment system required by §§ 155.310 and 155.320;

(3) the number of persons required to be on duty during oil transfer operations;

(4) the duties by title of each officer, person in charge, tankerman, deckhand, and any other person required for each oil transfer operation;

(5) procedures and duty assignments for tending the vessel's moorings during the transfer of oil;

(6) procedures for operating the emergency shutdown and communications means required by §§ 155.780 and 155.785, respectively;

(7) procedures for topping off tanks;

(8) procedures for ensuring that all valves used during the oil transfer operations are closed upon completion of transfer;

(9) procedures for reporting oil discharges into the water; and

(10) procedures for closing and opening the vessel openings in § 155.815.

(b) Exemptions or alternatives granted must be placed in the front of the oil transfer procedures.

(c) The vessel operator shall incorporate each amendment to the oil transfer procedures under § 155.760 in the procedures with the related existing requirement, or at the end of the procedures if not related to an existing requirement.

§ 155.760 Amendment of oil transfer procedures.

(a) The COTP or OCMI may require the vessel operator of any vessel that is required to have oil transfer procedures under § 155.720 to amend those procedures if the COTP or OCMI finds that the oil transfer procedures do not meet the requirements of this part.

(b) The COTP or OCMI shall notify the vessel operator in writing of any inadequacies in the oil transfer procedures. The vessel operator may submit written information, views, and arguments on and proposals for amending the procedures within 14 days from the date of the COTP or OCMI

notice. After considering all relevant material presented, the COTP or OCMI shall notify the vessel operator of any amendment required or adopted, or the COTP or OCMI may rescind the notice. The amendment becomes effective 30 days after the vessel operator receives the notice, unless the vessel operator petitions the Commandant to review the COTP or OCMI notice, in which case its effective date is delayed pending a decision by the Commandant. Petitions to the Commandant must be submitted in writing via the COTP or OCMI who issued the requirement to amend.

(c) If the COTP or OCMI finds that there is a condition requiring immediate action to prevent the discharge or risk of discharge of oil that makes the procedure in paragraph (b) of this section impractical or contrary to the public interest, he or she may issue an amendment effective on the date the vessel operator receives notice of it. In such a case, the COTP or OCMI includes a brief statement of the reasons for the findings in the notice, and the vessel operator may petition the Commandant, in any manner, to review the amendment. The petition does not postpone the amendment.

§ 155.770 Draining of oil.

No person may intentionally drain oil or oily waste from any source into the bilge of any vessel.

§ 155.780 Emergency shutdown.

(a) A tank vessel with a capacity of 250 or more barrels of cargo oil that is carrying oil must have on board an emergency means to enable a person in charge of an oil transfer operation to stop the flow of oil to a facility, other vessel, or within the vessel.

(b) The means required in paragraph (a) of this section may be a pump control, a quick-acting, power actuated valve, or an operating procedure. If an emergency pump control is used, it must stop the flow of oil if oil could siphon through the stopped pump.

(c) The means required in paragraph (a) of this section must be operable from the cargo deck, cargo control room, or the usual operating station of the person in charge of the oil transfer operation.

§ 155.785 Communications.

(a) During vessel to vessel oil transfers, each tank vessel with a capacity of 250 or more barrels of cargo oil that is carrying oil must have a means that enables continuous two-way voice communication between the persons in charge of the transfer operations on both vessels.

(b) Each vessel must have a means, which may be the communication system itself, that enables a person on board each vessel to effectively indicate his desire to use the means of communication required by paragraph (a) of this section.

(c) The means required by paragraph (a) of this section must be usable and effective in all phases of the transfer operation and all conditions of weather.

(d) Portable radio devices used to comply with paragraph (a) of this section during the transfer of flammable or combustible liquids must be intrinsically safe, as defined in 46 CFR 110.15–100(i), and meet Class I, Division I, Group D requirements as defined in 46 CFR 110.80.

§ 155.790 Deck lighting.

(a) A self-propelled vessel with a capacity of 250 or more barrels of oil that is transferring oil between sunset and sunrise must have deck lighting that adequately illuminates each—

(1) transfer connection point on the vessel;

(2) transfer connection point in use on any barge moored to the vessel to or from which oil is being transferred;

(3) oil transfer operations work area on the vessel; and

(4) oil transfer operations work area on any barge moored to the vessel to or from which oil is being transferred.

(b) Where the illumination is apparently inadequate the OCMI or COTP may require verification by instrument of the levels of illumination. On a horizontal plane 3 feet above the deck the illumination must measure at least—

(1) 5.0 foot candles at transfer connection points; and

(2) 1.0 foot candle in oil transfer operations work areas.

(c) Lighting must be located or shielded so as not to mislead or otherwise interfere with navigation on the adjacent waterways.

§ 155.800 Oil transfer hose.

Hose used to transfer oil must meet the requirements of § 154.500 of this chapter.

§ 155.805 Closure devices.

(a) Each end of each oil transfer hose on board which is not connected for the transfer of oil must be blanked off with butterfly valves, wafer-type resilient seated valves, blank flanges, or other means acceptable to the COTP or OCMI.

(b) New, unused hose is exempt from the requirement in paragraph (a) of this section.

§ 155.810 Tank vessel security.

The vessel operator of each tank vessel that contains more oil than the normal clingage and unpumpable bilge or sump residues in any cargo tank shall maintain surveillance of that vessel by using a person who is responsible for the security of the vessel and for keeping unauthorized persons off the vessel.

§ 155.815 Tank vessel integrity.

(a) Except as provided in paragraph (b) of this section, a tank vessel underway or at anchor must have all closure mechanisms on the following openings properly closed:

(1) Expansion trunk hatches;

(2) Ullage openings;

(3) Sounding ports;

(4) Tank cleaning openings; and

(5) Any other tank vessel openings that maintain the seaworthy condition of the tank vessel and prevent the inadvertent release of oil in the event of a tank vessel accident.

(b) No person may open any of the closure mechanisms in paragraph (a) of this section while the tank vessel is underway or at anchor except when authorized and supervised by a licensed officer or the tankerman required by 46 CFR 31.15–5(a).

§ 155.820 Records.

The vessel operator shall keep a written record available for inspection by the COTP or OCMI of—

(a) the name of each person currently designated as a person in charge of oil transfer operations.

(b) the date and result of the most recent test and inspection of each item tested or inspected as required by § 156.170 of this chapter;

(c) the hose information required by § 154.500(e) and (g) of this chapter unless that information is marked on the hose; and

(d) the Declaration of Inspection as required by § 156.150–(f) of this chapter.

Appendix A—Specifications for Shore Connection

[See §§ 340, 350, 370 and 380 of this Part]

Item	Description	Dimension
1	Outside diameter.	215 mm. (8 in.).
2	Inside diameter.	According to pipe outside diameter.
3	Bolt circle diameter.	183 mm. (7 $^{1}/_{16}$ in.).
4	Slots in flange.	6 holes 22 mm. ($^{7}/_{8}$ in.) in diameter shall be equidistantly placed on a bolt circle of the above diameter, slotted to the flange periphery. The slot width is to be 22 mm. ($^{7}/_{8}$ in.).
5	Flange thickness.	20 mm. ($^{3}/_{4}$ in.).
6	Bolts and nuts.	6, each of 20 mm. ($^{3}/_{4}$ in.) in diameter and of suitable length.

The flange must be of steel having a flat face, with a gasket of oilproof material, and must be suitable for a service pressure of 6 kg./cm.2 (85 p.s.i.).

The steel materials used must meet the material specifications of standard B16.5, Steel Pipe Flanges and Flanged Fittings of the American National Standards Institute. (See § 154.106 of this chapter.)

PART 156—OIL POLLUTION PREVENTION REGULATIONS FOR OIL TRANSFER OPERATIONS INVOLVING VESSELS

Sec.

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Authority: 33 U.S.C. 1321(j)(1)(C) and (D); E.O. 11735, 3 CFR, 1971—1975 COMP., p. 793; 49 CFR 1.46(m).

§ 156.100 Applicability.

This part applies to the transfer of oil on the navigable waters or contiguous zone of the U.S. to, from, or within any vessel and to or from a public vessel with a capacity of 250 or more barrels of that oil, except that this part does not apply to the transfer operation within or on a public vessel.

§ 156.105 Definitions.

The definitions in Part 154 of this chapter apply to this part.

§ 156.107 Alternatives.

(a) The COTP may consider and approve alternative procedures, methods, or equipment standards to be used by a vessel or facility operator in lieu of any requirements in this part if—

(1) compliance with the requirement is economically or physically impractical;

(2) the vessel or facility operator submits a written request for the alternative at least 30 days before operations under the alternative are proposed, unless the COTP authorizes a shorter time; and

(3) the alternative provides an equivalent level of safety and protection from pollution by oil, which is documented in the request.

(b) The COTP takes final approval or disapproval action on any alternative requested, in writing, within 30 days of receipt of the request.

§ 156.110 Exemptions.

(a) The Chief, Office of Marine Environment and Systems, acting for the Commandant, grants an exemption or partial exemption from compliance with any requirement in this part if—

(1) the vessel or facility operator submits an application for exemption via the COTP at least 30 days before operations under the exemption are proposed, unless the COTP authorizes a shorter time; and

(2) it is determined, from the application, that—

(i) compliance with a specific requirement is economically or physically impractical;

(ii) no alternative procedures, methods, or equipment standards exist that would provide an equivalent level of safety and protection from pollution by oil; and

(iii) the likelihood of oil being discharged as a result of the exemption is minimal.

(b) If requested, the applicant must submit any appropriate information, including an environmental and economic assessment of the effects of and reasons for the exemption and proposed procedures, methods or equipment standards.

(c) The exemption may specify the procedures, methods, or equipment standards that will apply.

(d) An exemption is granted or denied in writing. The decision of the Chief, Office of Marine Environment and Systems is a final agency action.

§ 156.112 Suspension order.

The COTP or OCMI may issue a suspension order to suspend oil transfer operations to the vessel or facility operator when the COTP or OCMI finds there is a condition requiring action to prevent the discharge or threat of discharge of oil, or when the COTP or OCMI is unable to verify compliance with the regulations through an inspection. A suspension order—

(a) may be effective immediately;

(b) is issued in writing unless it is effective immediately and then it may be issued orally and followed up in writing;

(c) includes a statement of each condition requiring action to prevent the discharge of oil; and

(d) is withdrawn when the COTP, OCMI, or District Commander, as applicable, determines that the condition requiring action to prevent the discharge or threat of discharge of oil has been corrected or no longer exists.

§ 156.113 Compliance with suspension order.

(a) No vessel or facility operator to whom a suspension order has been issued may conduct oil transfer operations from the time the order is effective until that order is withdrawn by the applicable COTP, OCMI, or by the District Commander.

(b) The vessel or facility operator may request reconsideration of the suspension order either orally or in writing to the COTP or OCMI who issued it. The request may contain supporting documentation and evidence that the vessel or facility operator wishes to have considered.

(c) Any person not satisfied with a ruling made under the procedure contained in paragraph (b) of this section may appeal that ruling in writing, except as allowed under paragraph (e) of this section, to the Coast Guard District Commander of the district in which the suspension order was issued. The appeal may contain supporting documentation and evidence that the appellant wishes to have considered. The appeal does not stay the effect of the suspension order while the COTP or OCMI ruling is being reviewed. The District Commander issues a ruling after reviewing the appeal.

(d) The ruling by the District Commander is final agency action.

(e) If the delay in presenting a written appeal under paragraph (c) of this section would have a significant adverse impact on the appellant, the appeal may initially be presented orally. If an initial presentation of the appeal is made orally, the appellant must submit the appeal in writing within five days of the oral presentation to the District Commander to whom the oral appeal was made, containing, at a minimum the basis for the appeal and a summary of the material presented orally.

§ 156.115 Person in charge: Limitations.

(a) No person may serve as the person in charge of oil transfer operations on more than one vessel at a time during oil transfers between vessels or between two or more vessels and a facility unless authorized by the COTP.

(b) No person may serve as the person in charge of both a vessel and a facility during oil transfer operations unless authorized by the COTP.

§ 156.118 Advance notice of oil transfer.

(a) The COTP may require a facility operator to notify the COTP of the time and place of each oil transfer operation at least 4 hours before it begins for facilities that—

(1) are mobile;

(2) are in a remote location;

(3) have a prior history of oil spills; or

(4) conduct infrequent oil transfer operations.

(b) In the case of a vessel to vessel transfer, the COTP may require a vessel

operator of a lightering or fueling vessel to notify the COTP of the time and place of each oil transfer operation, as specified by the COTP, at least 4 hours before it begins.

(c) No person may conduct such oil transfer operations until advance notice has been given as specified by the COTP.

Note.—The notification may be accomplished by submitting a written schedule, periodically updated to be current.

§ 156.120 Requirements for oil transfer.

No person may conduct an oil transfer operation unless—

(a) the vessel's moorings are strong enough to hold during all expected conditions of surge, current, and weather and are long enough to allow adjustment for changes in draft, drift, and tide during the transfer operation;

(b) oil transfer hoses and loading arms are long enough to allow the vessel to move to the limits of its moorings without placing strain on the hose, loading arm, or oil transfer piping system;

(c) each hose is supported to prevent kinking or other damage to the hose and strain on its coupling.

(d) each part of the oil transfer system is aligned to allow the flow of oil;

(e) each part of the oil transfer system not necessary for the transfer operation is securely blanked or shut off;

(f) the end of each hose and loading arm that is not connected for the transfer of oil is blanked off using the closure devices required by §§ 154.120 and 155.805 of this chapter;

(g) the transfer system is attached to a fixed connection on the vessel and the facility except that when a vessel is receiving fuel, an automatic back pressure shutoff nozzle may be used;

(h) each overboard discharge or sea suction valve that is connected to the vessel's oil transfer or cargo tank system is sealed or lashed in the closed position; except when used to receive or discharge ballast in compliance with 33 CFR 157;

(i) each oil transfer hose has no unrepaired loose covers, kinks, bulges, soft spots, or any other defect which would permit the discharge of oil through the hose material and no gouges, cuts, or slashes that penetrate the first layer of hose reinforcement ("reinforcement" means the strength members of the hose, consisting of fabric, cord and/or metal);

(j) each hose or loading arm in use meets §§ 154.500 and 154.510 of this chapter, respectively;

(k) each connection meets § 156.130;

(l) any monitoring devices required by § 154.525 of this chapter are installed and operating properly;

(m) the discharge containment equipment required by § 154.545 of this chapter is readily accessible or deployed as applicable;

(n) the discharge containment required by §§ 154.530, 155.310, and 155.320 of this chapter, as applicable, is in place and periodically drained to provide the required capacity;

(o) each drain and scupper is closed by the mechanical means required by § 155.310;

(p) all connections in the oil transfer system are leak free except that a component in an oil transfer system, such as the packing glands of a pump, may leak at a rate that does not exceed the capacity of the discharge containment provided during the transfer operation;

(q) the communications required by §§ 154.560 and 155.785 of this chapter are operable for the transfer operation;

(r) the emergency means of shutdown required by §§ 154.550 and 155.780 of this chapter, as applicable, is in position and operable;

(s) there is a person in charge on the transferring vessel or facility and the receiving vessel or facility except as otherwise authorized under § 156.115;

(t) each person in charge required by paragraph (s) of this section—

(1) is at the site of the oil transfer operation and immediately available to the oil transfer personnel;

(2) has in his or her possession a copy of the facility operations manual or vessel oil transfer procedures, as appropriate; and

(3) conducts the transfer operation in accordance with the facility operations manual or vessel oil transfer procedures, as appropriate;

(u) the personnel required, under the facility operations manual and the vessel oil transfer procedures, to conduct the oil transfer operation—

(1) are on duty; and

(2) conduct the transfer operation in accordance with the facility operations manual or vessel oil transfer procedures, as appropriate;

(v) at least one person is at the site of the oil transfer operation who fluently speaks the language or languages spoken by both persons in charge;

(w) the person in charge of oil transfer operations on the transferring vessel or facility and the person in charge of oil transfer operations on the receiving vessel or facility have held a conference, to ensure that each person in charge understands the following details of the transfer operation—

(1) the identity of the product to be transferred;

(2) the sequence of transfer operations;

(3) the transfer rate;

(4) the name or title and location of each person participating in the transfer operation;

(5) details of the transferring and receiving systems;

(6) critical stages of the transfer operation;

(7) federal, state, and local rules that apply to the transfer of oil;

(8) emergency procedures;

(9) discharge containment procedures;

(10) discharge reporting procedures;

(11) watch or shift arrangement;

(12) transfer shutdown procedures;

(x) the person in charge of oil transfer operations on the transferring vessel or facility and the person in charge of oil transfer operations on the receiving vessel or facility agree to begin the transfer operation;

(y) between sunset and sunrise the lighting required by §§ 154.570 and 155.790 of this chapter is provided; and

(z) for transfer operations between tank barges from sunset to sunrise, lighting is provided as described in § 155.790 of this chapter.

§ 156.125 Oil discharge cleanup.

(a) Each person conducting an oil transfer operation shall stop the transfer operation whenever oil from any source is discharged—

(1) in the transfer operation work area; or

(2) into the water or upon the adjoining shoreline in the transfer area.

(b) Except as permitted under paragraph (c) of this section, no person may resume an oil transfer operation after it has been stopped under paragraph (a) of this section, unless—

(1) oil discharged in the oil transfer operation work area is cleaned up; and

(2) oil discharged into the water or upon the adjoining shoreline is cleaned up, or is contained and being cleaned up.

(c) The COTP may authorize resuming the oil transfer operation if it is deemed appropriate.

§ 156.130 Connection.

(a) Each person who makes a connection for oil transfer operations shall—

(1) use suitable material in joints and couplings to ensure a leak-free seal;

(2) use a bolt in at least every other hole, and in no case less than four bolts, in each temporary bolted connection that uses a flange that meets American National Standards Institute (ANSI) standard flange requirements under § 154.500(d)(2) of this chapter;

(3) use a bolt in each hole in each temporary bolted connection that uses a flange other than one that meets ANSI standards;

(4) use a bolt in each hole of each permanently connected flange;

(5) use bolts of the correct size in each bolted connection; and

(6) tighten each bolt and nut uniformly to distribute the load and sufficiently to ensure a leak free seal.

(b) A person who makes a connection for oil transfer operations must not use any bolt that shows signs of strain or is elongated or deteriorated.

(c) Except as provided in paragraph (d) of this section, no person may use a connection for oil transfer operations unless it is—

(1) a bolted or full threaded connection; or

(2) a quick-connect coupling acceptable to the Commandant.

(d) No person may transfer oil to a vessel that has a fill pipe for which containment cannot practically be provided unless an automatic back pressure shutoff nozzle is used.

§ 156.150 Declaration of inspection.

(a) No person may transfer oil to or from a vessel unless each person in charge, desiganted under §§ 154.710 and 155.700 of this chapter, has filled out and signed the declaration of inspection form described in paragraph (c) of this section.

(b) No person in charge may sign the declaration of inspection unless he or she has determined by inspection, and indicated by initialling in the appropriate space on the declaration of inspection form, that the facility or vessel, as appropriate, meets § 156.120.

(c) The declaration of inspection may be in any form but must contain at least—

(1) the name or other identification of the transferring vessel or facility and the receiving vessel or facility;

(2) the address of the facility or location of the transfer operation if not at a facility;

(3) the date the transfer operation is started;

(4) a list of the requirements in § 156.120 with spaces on the form following each requirement for the person in charge of the vessel or facility to indicate by initialling that the requirement is met for the transfer operation; and

(5) a space for the date, time of signing, signature, and title of each person in charge during oil transfer operations on the transferring vessel or facility and space for the date, time of signing, signature, and title of each person in charge during oil transfer operations on the receiving facility or vessel.

(d) The form for the declaration of inspection may incorporate the declaration-of-inspection requirements under 46 CFR 35.35–30.

(e) The vessel and facility persons in charge shall each have a signed copy of the declaration of inspection available for inspection by the COTP during the oil transfer operation.

(f) The operators of each vessel and facility engaged in an oil transfer operation shall retain a signed copy of the declaration of inspection on board the vessel or at the facility for at least 1 month from the date of signature.

§ 156.160 Supervision by person in charge.

(a) No person may connect or disconnect a hose, top off a tank, or engage in any other critical procedures during an oil transfer operation unless the person in charge, required by § 156.120(s), supervises that procedure.

(b) No person may start the flow of oil to or from a vessel unless instructed to do so by either person in charge.

(c) No person may transfer oil to or from a vessel unless each person in charge is in the immediate vicinity and immediately available to the oil transfer personnel.

§ 156.170 Equipment tests and inspections.

(a) Except as provided in paragraph (d) of this section, no person may use any equipment listed in paragraph (c) of this section for oil transfer operations unless the vessel or facility operator, as appropriate, tests and inspects the equipment in accordance with paragraphs (b), (c) and (f) of this section and the equipment is in the condition specified in paragraph (c) of this section.

(b) During any test or inspection required by this section, the entire external surface of the hose must be accessible.

(c) For the purpose of paragraph (a) of this section—

(1) each nonmetallic oil transfer hose must—

(i) have no unrepaired loose covers, kinks, bulges, soft spots, or any other defect which would permit the discharge of oil through the hose material, and no gouges, cuts or slashes that penetrate the first layer of hose reinforcement, as defined in § 156.120(j).

(ii) have no external deterioration and, to the extent internal inspection is possible with both ends of the hose open, no internal deterioration;

(iii) not burst, bulge, leak, or abnormally distort under static liquid pressure at least 1½ times the maximum allowable working pressure; and

(iv) where a dispute arises under paragraph (c)(1)(i) of this section, be acceptable for use after a hydrostatic test is successfully completed in the presence of the COTP;

(2) each transfer system relief valve must open at or below the pressure at which it is set to open;

(3) each pressure gauge must show pressure within 10 percent of the actual pressure;

(4) each loading arm and each oil transfer pipe system, including each metallic hose, must not leak under static liquid pressure at least 1½ times the maximum allowable working pressure; and

(5) each item of remote operating or indicating equipment, such as a remotely operated valve, tank level alarm, or emergency shutdown device, must perform its intended function.

(d) No person may use any hose in underwater service for oil transfer operations unless the operator of the vessel or facility has tested and inspected it in accordance with paragraph (c)(1) or (c)(4) of this section, as applicable.

(e) The test fluid used for the testing required by this section is limited to liquids that are compatible with the hose tube as recommended by the hose manufacturer.

(f) The frequency of the tests and inspections required by this section must be—

(1) annually for facilities; and

(2) annually or as part of the biennial and mid-period inspections for vessels.

(33 U.S.C. 1321(j)(1)(C) and (D); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46(m)).

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

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